

COMMISSIONERS JOURNAL NO. 77 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JULY 28, 2022

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present:
Barb Lewis, President
Jeff Benton, Vice President
Gary Merrell, Commissioner

1
RESOLUTION NO. 22-601

IN THE MATTER OF APPROVING THE ELECTRONIC RECORD OF THE PROCEEDINGS FROM REGULAR MEETING HELD JULY 18, 2022:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the Board of Commissioners of Delaware County, Ohio (the "Board") met in regular session on July 18, 2022; and

WHEREAS, the Clerk of the Board has certified, pursuant to section 305.12 of the Ohio Revised Code, that the entire record of the proceedings at that meeting is completely and accurately captured in the electronic record of those proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the electronic record of proceedings at the previous meeting.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

2
PUBLIC COMMENT
-Mark Butler

3
RESOLUTION NO. 22-602

IN THE MATTER OF APPROVING PURCHASE ORDERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0727 AND MEMO TRANSFERS IN BATCH NUMBERS MTAPR0727:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0727, memo transfers in batch numbers MTAPR0727 and Purchase Orders as listed below:

	<u>Vendor</u>	<u>Description</u>	<u>Account</u>	<u>Amount</u>
PO' Increase				
	(PO2200837) Delaware County Fair	Other Services	29911190-5380	\$364,697.61
PR Number	Vendor Name	Line Description	Line Account	Amount
R2203830	PC&R PAINTING INC	HISTORICAL COURTHOUSE PAINTING	10011105 - 5328	\$6,500.00
R2203835	TRI COUNTY TOWER SERVICE INC	STRIKE MEDIC 2	60111901 - 5370	\$18,710.00
R2203841	PRECISION WINDOW CLEANING LLC	WINDOW CLEANING	10011105 - 5328	\$6,210.00

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

4
RESOLUTION NO. 22-603

IN THE MATTER OF ACKNOWLEDGING RECEIPT OF ANNEXATION PETITION FROM AGENT FOR THE PETITIONER, REBECCA A. KELLEY, ESQ., REQUESTING ANNEXATION OF 0.301 ACRES OF LAND IN BERKSHIRE TOWNSHIP TO THE VILLAGE OF GALENA:

It was moved by Mr. Benton, seconded by Mr. Merrell to acknowledge that on July 14, 2022, the Clerk to the Board of Commissioners received a petition requesting annexation of 0.301 acres from Berkshire Township to the Village of Galena.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

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RESOLUTION NO. 22-606

IN THE MATTER OF APPROVING AN AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY COMMON PLEAS COURT; (GENERAL, DOMESTIC RELATIONS, AND JUVENILE/PROBATE DIVISIONS) AND ELECTRONIC SPECIALTY COMPANY FOR VIDEO CONFERENCING EQUIPMENT:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Delaware County Court of Common Pleas (General, Domestic Relations, and Juvenile/Probate Divisions) recommends approval of an Agreement with Electronic Specialty Company for video conferencing equipment;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves an Agreement with Electronic Specialty Company for video conferencing equipment, as follows:

AGREEMENT TO PURCHASE VIDEO CONFERENCING EQUIPMENT

This Agreement is entered into this 28th day of July, 2022 by and between the Board of Commissioners, Delaware County, Ohio (“BOC”), whose principal place of business is located at 91 North Sandusky Street, Delaware, Ohio 43015, the Common Pleas Court, General Division, Delaware County, Ohio (“General Division”), whose principal place of business is located at 117 North Union Street, 500 Level, Delaware, Ohio 43015, the Common Pleas Court, Domestic Relations Division, Delaware County, Ohio (“DR Division”), whose principal place of business is located at 117 North Union Street, 400 Level, Delaware, Ohio 43015, the Common Pleas Court, Juvenile/Probate Division, Delaware County, Ohio (“JP Division”), whose principal place of business is located at 145 North Union Street, Ground Floor, Delaware, Ohio 43015, (General Division, DR Division, and JP Division collectively “Court”)(Court and BOC collectively “County”) and Electronic Specialty Company or ESCOM (“ESC”), whose principal place of business is located at 1325 Dunbar Avenue, P.O. Box 4, Dunbar, West Virginia 25064 (individually “Party,” collectively, “Parties”).

1. PURPOSE OF AGREEMENT:

The purpose of this Agreement is to state the covenants and conditions under which ESC will provide to the Court video conferencing equipment (“Equipment”) and services related to the Equipment, including, but not limited to, installation and training (“Services”).

2. SCOPE OF SERVICES

ESC shall provide to the Court the Equipment and Services as listed in Exhibits A–F. The chart below lists the room type and number of rooms to be furnished with the Equipment listed on each Exhibit:

Ex.	Court	Room(s) Type	Number of Rooms
A	JP Division	Courtrooms	2*
B	DR Division	Courtroom	1
C	DR Division	Hearing Rooms	2**
D	General Division	Courtroom #1	1
E	General Division	Courtroom #2	1
F	General Division	Hearing Rooms	2

*Ex A – Quote is for 1 room. Equipment and Services will actually be provided for 2 rooms.

**Ex C – Quote is for 4 rooms. Equipment and Services will actually be provided for 2 rooms.

All work shall be performed in the time and manner indicated on each Exhibit. ESC shall coordinate and schedule the performance of all Services in advance with the court administrator for the respective Court. All Services shall be performed when the Court is not in session and hearings are not being held.

3. FINANCIAL AGREEMENT

A. Fees.

In exchange for ESC satisfactorily providing the Equipment and performing the Services, as solely determined by the Court, the Court shall pay ESC a total fee of \$239,698, broken down as follows:

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Ex.	Court	Rooms Quoted	Quoted Amount	Rooms to be Furnished	Cost
A	JP Division	1	\$29,117.00	2	\$58,234.00
B	DR Division	1	\$29,892.00	1	\$29,892.00
C	DR Division	4	\$103,888.00	2	\$51,944.00
D	General Division	1	\$29,892.00	1	\$29,892.00
E	General Division	1	\$29,892.00	1	\$29,892.00
F	General Division	2	\$39,844.00	2	\$39,844.00
				TOTAL	\$239,698.00

B. Maximum Payment

The maximum amount payable pursuant to this Agreement is \$239,698.00.

C. Taxes

The County and all boards, departments, offices, and agencies thereof are exempt from all federal, state, and local taxes. As such, the Court shall not be invoiced for and shall not pay any taxes. A tax exempt certificate shall be provided to ESC upon request.

D. Competitive Bidding Not Required

ESC is willing to provide the Equipment and Services on terms, conditions, and specifications equivalent to those offered through Ohio Cooperative Purchasing Program contracts, but at a lower price. Accordingly, consistent with R.C. § 125.04(C), this Agreement is not required to be competitively bid.

E. Invoice and Payment

To receive payment, ESC shall:

- Submit to the Court a completed federal IRS W-9 form (Exhibit G).
- Submit to the Court a proper detailed invoice. A proper detailed invoice is defined as an invoice free from defects, discrepancies, errors, and/or other improprieties and shall include, but is not limited to including, the following:
 - ESC's full name, address, telephone number, and facsimile number;
 - Name of a contact person with ESC in charge of billing, including a telephone number and email address for such contact person;
 - ESC's federal employer identification number;
 - Court's full name and address;
 - Detail, including, but not limited to, a description of the Equipment and Services provided.
 - Itemized costs, including, but not limited to, unit prices, rates, applicable discounts, the formula/means of arriving at the total amount owed, and total amount owed.

As applicable, the invoice shall be accompanied by documentation, satisfactory to the Court, supporting the invoiced amount.

Upon submission of a proper detailed invoice and, if applicable, any accompanying documentation, payment shall be made to ESC within thirty (30) days of the date of the invoice.

Defective invoices shall be returned to ESC noting areas for correction. When such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

4. INDEPENDENT CONTRACTOR

ESC agrees that it shall act in performance of this Agreement as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Agreement.

ESC assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for performance of this Agreement and/or the provision of the Equipment and Services.

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ESC and/or its officers, officials, directors, employees, representatives, agents, and/or volunteers are not entitled to any benefits enjoyed by employees of the County, including the BOC and Court, or Delaware County, Ohio.

**5. INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT/
NO CONTRIBUTION TO OPERS**

The County is a public employer as defined in R.C. § 145.01(D). The County has classified ESC as an independent contractor or another classification other than public employee. As a result, no contributions will be made to the Ohio Public Employees Retirement System (“OPERS”) for or on behalf of ESC and/or any of its officers, officials, directors, employees, representatives, agents, and/or volunteers for performance of this Agreement and/or the provision of the Equipment and Services. ESC acknowledges and agrees that the County, in accordance with R.C. § 145.038(A), has informed it of such classification and that no contributions will be made to OPERS. If ESC is an individual or has less than five (5) employees, ESC, in support of being so informed and pursuant to R.C. § 145.038, agrees to and shall complete and shall have each of its employees complete an OPERS Independent Contractor/Worker Acknowledgement Form (“OPERS Form”). The OPERS Form is attached to this Agreement as Exhibit H. The Court shall retain the completed OPERS Form(s) and immediately transmit a copy(ies) of it/them to OPERS.

If ESC has five (5) or more employees, ESC, by signature of its authorized representative below, hereby certifies such fact in lieu of completing the OPERS Form:

Owen S. Higgins II
President

Date

Electronic Specialty Company

6. INDEMNITY

ESC shall provide indemnity as follows:

- A. To the fullest extent of the law and without limitation, ESC agrees to and shall indemnify and hold free and harmless the County, including the BOC and Court, Delaware County, Ohio, and all of their respective boards, officers, officials, directors, employees, volunteers, agents, and representatives (collectively “Indemnified Parties”) from any and all actions, claims, suits, demands, judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney’s fees, arising out of or resulting from any accident, damage, injury, bodily injury, sickness, disease, illness, death, or occurrence, regardless of type or nature, negligent or accidental, actual or threatened, intentional or unintentional, known or unknown, realized or unrealized, related in any manner, in whole or in part, to ESC’s or any subcontractor’s performance of this Agreement or the actions, inactions, or omissions of ESC or any subcontractor, including, but not limited to the performance, actions, inactions, or omissions of ESC’s or any subcontractor’s boards, officers, officials, directors, employees, volunteers, agents, or representatives. ESC agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties that ESC shall, at its own expense, promptly retain defense counsel to represent, defend, and protect the Indemnified Parties, paying any and all attorney’s fees, costs, and expenses. ESC further agrees that in the event of or should any such actions, claims, suits, or demands be brought against the Indemnified Parties, that ESC shall pay, settle, compromise and procure the discharge of any and all judgments, damages, losses, costs, fines, penalties, fees, and expenses, including, but not limited to attorney’s fees.
- B. ESC shall assume full responsibility for, pay for, and shall indemnify and hold free and harmless the Indemnified Parties from any harm, damage, destruction, injury, or loss, regardless of type or nature, known or unknown, realized or unrealized, to any property, real or personal, belonging to the Indemnified Parties or others, including but not limited to real estate, buildings, structures, fixtures, furnishings, equipment, vehicles, supplies, accessories and/or parts arising out of or resulting in whole or in part from any actions, inactions, or omissions negligent or accidental, actual or threatened, intentional or unintentional of ESC, its subcontractors, and/or their respective boards, officers, officials, directors, employees, volunteers, agents, or representatives.

7. INSURANCE

ESC shall be appropriately bonded and shall carry and maintain throughout the term of the Agreement, without lapse, the following policies of insurance with the following minimum coverage limits.

- A. Commercial General Liability Insurance with minimum coverage limits of at least one million dollars (\$1,000,000.00) per occurrence, with an annual aggregate of at least two million dollars (\$2,000,000.00), including coverage for subcontractors, if any are used. This insurance

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shall include, but not be limited to, the following coverage:

1. Premises-Operations
 2. Product and Completed Operation
 3. Broad Form Property Damage
 4. Contractual
 5. Personal Injury
- B. Umbrella or Excess Liability Insurance (over and above Commercial General Liability) with minimum coverage limits of at least two million dollars (\$2,000,000.00).
- C. Worker's Compensation Insurance/Employers Liability Insurance as required by Ohio law and any other state in which work will be performed.
- D. If vehicles are to be used by ESC in connection with this Agreement, Auto/Vehicle Liability Insurance covering all owned, leased, non-owned, and/or hired vehicles so used with minimum coverage limits of at least three hundred thousand dollars (\$300,000.00) (Combined Single Limit) or, one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per accident for bodily injury and one hundred thousand dollars (\$100,000.00) per accident for property damage or more as may be required for particular vehicles or particular uses of vehicles as required by applicable law.

Prior to commencement of this Agreement, ESC shall present to the Court current certificates of insurance for the required insurance. The insurance company needs to be identified for each insurance policy and coverage. The certificates of insurance are to be signed by a person authorized by the insurance company to bind coverage on its behalf. The County, including the BOC and Court, and Delaware County, Ohio shall be named as additional insureds on all required policy(ies) of insurance and listed as such on the certificates of insurance.

ESC shall be responsible for any and all premiums for all required policy(ies) of insurance.

All insurance shall be written by insurance companies licensed to do business in the State of Ohio and in good standing with the Ohio Department of Insurance.

The above required insurance coverage shall be primary insurance as respects the Indemnified Parties and any insurance maintained by the Indemnified Parties shall be excess to the above required insurance and shall not contribute to it.

The insurer shall provide at least thirty (30) days written notice to Court before any cancellation or non-renewal of insurance coverage. Failure to provide such written notice will obligate the insurer to provide coverage as if cancellation or non-renewal did not take place. Acknowledgment of such requirement shall be shown on the provided certificates of insurance.

If there is any change in insurance carrier or liability amounts and/or upon renewal, new certificates of insurance must be provided to the Court within seven (7) calendar days of change or renewal.

During the term of this Agreement, the Court may require ESC to provide respective and/or additional certificate(s) of insurance in order to verify coverage. Failure to provide a requested certificate of insurance within seven (7) calendar days of the request may be considered as default.

In addition to the rights and protections provided by the insurance policies as required above, the County, including the BOC and Court, and Delaware County, Ohio shall retain all such other and further rights and remedies as are available to them at law or in equity.

8. WARRANTY

ESC shall provide the warranties on the Equipment, Services, and labor as listed in Exhibits A–F. ESC also hereby warrants that all of its and its subcontractor's officers, officials, directors, employees, volunteers, agents, and representatives that will perform this Agreement will be at the time of performance, legally and properly trained and/or licensed to perform the tasks they are required to perform under this Agreement. ESC additionally hereby warrants that the Equipment, Services, and labor that it provides pursuant to this Agreement are correct, accurate, performed properly, and are free from defect. ESC, without cost to the Court, shall promptly and properly fix, correct, re-perform, and/or replace the Equipment, Services, and labor or any portion thereof provided pursuant to this Agreement that, in the sole discretion of the Court, is/are defective and/or not satisfactorily performed.

9. NO CONFIDENTIALITY OF QUOTES

ESC understands and agrees that Exhibits A–F, despite being designated on their face as confidential, are not confidential and may be disclosed as a public record.

10. LICENSES

ESC certifies and warrants that it, its employees, and/or subcontractors have obtained and maintain

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current all approvals, licenses, including contractor's licenses and operator (driver's) licenses, certifications, permits, and/or other qualifications or prerequisites (collectively "Licenses") necessary to fully perform this Agreement and to conduct business in the state of Ohio. ESC further certifies and warrants that all such Licenses are operative and current and have not been revoked or are not currently suspended for any reason. Proof of such Licenses shall be promptly provided upon request.

11. ACCESS TO RECORDS

At any time during regular business hours, with reasonable notice, and as often as the Court or other agency or individual authorized by the Court may deem necessary, ESC shall make available to any or all the above named parties or their authorized representatives, at no cost, all contracts, subcontracts, invoices, receipts, reports, documents, and all other information or data, regardless of form or media, relating to all matters covered by this Agreement (collectively "Records"). The Court and the above named parties shall be permitted by ESC and shall be entitled to inspect or audit and/or make excerpts, copies, and/or transcripts of the Records.

12. RETENTION OF RECORDS

For a minimum of three (3) years after all Equipment and Services are provided under this Agreement and ESC has received all compensation for the same or termination of this Agreement, ESC shall retain and maintain and assure that all of its subcontractors retain and maintain all Records. If an audit, litigation, or other action related to this Agreement is initiated during the term of this Agreement or the three (3) year retention period, ESC shall retain and maintain, and assure that all of its subcontractors retain and maintain the Records until the action is concluded and all issues are resolved or the three (3) years have expired, whichever occurs last.

13. TERMINATION

This Agreement may be terminated as follows:

A. Convenience:

The Court may terminate this Agreement at any time and for any reason by giving at least seven (7) days advance notice, in writing, to ESC.

The Parties may terminate this Agreement at any time and for any reason upon the mutual written and signed consent of the Parties.

B. Breach or Default:

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the aggrieved Party shall provide written notice of the breach or default to the breaching or defaulting Party and permit the breaching or defaulting Party to remedy the breach or default within a specified reasonable period of time. If the breach or default is not satisfactorily remedied within the stated period of time, this Agreement may, at the election of the aggrieved Party, be immediately terminated. The terminating Party shall provide prompt written notice of such termination to the other Party.

Termination pursuant to this section shall relieve the Parties of any and all further obligations under this Agreement, except that ESC shall be entitled to receive compensation for any Equipment and/or Services satisfactorily provided hereunder, as solely determined by the Court, through the date specified on the notice as the effective date of termination. All unearned compensation shall be immediately refunded by ESC to the Court.

If the Agreement is terminated pursuant to this Section, ESC shall have no cause of action against the County, including the BOC and Court, and/or Delaware County, Ohio, except for a cause of action for non-payment for Equipment and/or Services rendered prior to the effective date of termination. The County, without limitation, retains and reserves and may exercise any available administrative, contractual, or equitable rights, legal actions, or remedies.

14. WAIVER

The waiver of any provision or requirement of this Agreement or any occurrence of breach or default is not and shall not be interpreted as a waiver of any such subsequent occurrences. If either Party fails to perform an obligation(s) under this Agreement and such failure(s) is (are) waived by the other Party, such waiver shall be limited to the particular failure(s) so waived and shall not be deemed to waive any other failure(s). Waiver by either Party shall be authorized in writing and signed by an authorized representative(s) of the waiving Party. In the case of the County, any waiver shall be approved by the Court.

15. NOTICES

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All notices which may be required by this Agreement or by operation of any rule of law shall be sent via certified mail, return receipt requested, by nationally recognized and reputable overnight courier, return receipt requested, by email, read receipt requested, or hand delivered to the following individuals at the following addresses and shall be effective on the date sent or hand delivered:

GENERAL DIVISION

Kristin Schultz
Court Administrator
Delaware County Common Pleas Court
General Division
117 North Union Street, 500 Level
Delaware, OH 43015

Email:
kschultz@co.delaware.oh.us

DR DIVISION

Larry McQuain
Court Administrator
Delaware County Common Pleas Court
Domestic Relations Division
117 North Union Street, 400 Level
Delaware, OH 43015

Email:
lmcquain@co.delaware.oh.us

JP Division

Katie Stenman
Court Administrator
Delaware County Common Pleas Court
Juvenile/Probate Division
145 North Union Street, Ground Floor
Delaware, OH 43015

Email:
kstenman@co.delaware.oh.us

ESC

Owen S. Higgins II
President
Electronic Specialty Company
1325 Dunbar Avenue
P.O. Box 4
Dunbar, WV 25064

Email:
Shane@electronicspecialty.com

16. CERTIFICATION REGARDING FINDINGS FOR RECOVERY

ESC, by signature of its authorized representative below, hereby certifies that it is not subject to any current unresolved findings for recovery pending with or issued by the Ohio Auditor of State.

Owen S. Higgins II
President
Electronic Specialty Company

Date

17. CERTIFICATION REGARDING PERSONAL PROPERTY TAXES

ESC, by signature of its authorized representative below, hereby certifies that it is not charged with delinquent personal property taxes on the general list of personal property in Delaware County, Ohio, or any other counties containing property in the taxing districts under the jurisdiction of the Auditor of Delaware County, Ohio.

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Owen S. Higgins II

Date

President

Electronic Specialty Company

18. NON-DISCRIMINATION/EQUAL OPPORTUNITY/CIVIL RIGHTS

ESC agrees to both of the following:

- A. That, in the hiring of employees for the performance of work under the this Agreement or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates;
- B. That ESC, its subcontractors, or person acting on behalf of ESC or any of its subcontractors shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability or military status as defined in R.C. § 4112.01, national origin, or ancestry.

ESC agrees to the above and, by the signature of its authorized representative on attached Exhibit I (Non-Discrimination/Equal Opportunity/Civil Rights), agrees to the requirements contained in said exhibit and certifies that it complies with all applicable federal, state, and local laws regarding non-discrimination, equal opportunity, and/or civil rights and will not discriminate.

19. PROHIBITED INTEREST

ESC agrees that no employee of the County during his/her tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. ESC agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year after the date all Equipment and Services are provided under this Agreement and ESC has received all compensation for the same or termination of this Agreement without the prior express signed written consent of the County.

20. CONFLICT OF INTEREST

ESC is unaware of and certifies that there are no conflicts of interest, either involving it or its employees, that would prohibit ESC from entering this Agreement and agrees to immediately notify the Court when and if it becomes aware of any actual or potential conflict(s) of interest that arises during the term of the Agreement.

21. DRUG FREE ENVIRONMENT

ESC agrees to comply with all applicable federal, state, and local laws regarding drug-free environment and shall have established and have in place a drug free workplace policy. ESC shall make a good faith effort to ensure that all of its employees, when performing this Agreement, will not purchase, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

22. COUNTY/COURT POLICIES

ESC shall be bound by, conform to, comply with, and abide by all current applicable Court and Delaware County policies, including, but not limited to, the Contractor Safety Policy, Computer Use & CyberSecurity Policy, Social Media Policy, and Internet Use Policy (collectively "County Policy") and shall require any and all of its boards, board members, officers, officials, directors, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County (collectively "Employees") and subcontractors to comply with County Policy and shall be responsible for such compliance. Notwithstanding any other termination provision of this Agreement, the County may, in its sole discretion, immediately terminate this Agreement for failure of ESC or any of its Employees or subcontractors to comply with County Policy. Copies of Court and County Policy are available upon request or County Policy is available online at:

<http://www.co.delaware.oh.us/index.php/policies>.

The Court and County reserve the authority to change, amend, replace, enact, repeal, and/or rescind Court and/or County Policy at any time and without notice.

23. AUDIT

ESC agrees to submit to audit and accept responsibility for receiving, replying to, and/or complying with any audit exception by any appropriate federal, state, local, or independent audit authority. ESC agrees to reimburse the Court the amount of any identified audit exception.

24. SUBCONTRACTING

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ESC may subcontract any portion of this Agreement with prior written approval of the Court, such approval not to be unreasonably withheld. If all or any portion of this Agreement is subcontracted, any subcontractor shall be bound by all applicable terms of this Agreement and ESC shall continue to act as the prime contractor for all subcontracted work and shall assume full responsibility for the performance of the work. ESC shall remain the sole point of contact and shall be ultimately responsible for the performance of the work.

25. ASSIGNMENT

This Agreement and/or any of the rights or responsibilities it contains may not be assigned or transferred to any other party without the prior express signed written consent of the County, except that ESC may assign this Agreement to a successor in interest in all its business.

26. AUTHORITY

The County is authorized by including, but not limited to, R.C §§ 307.01 and 307.843 to enter this Agreement.

27. NO EXCLUSIVITY

ESC shall not be an exclusive provider to the Court. The Court, in the Court's sole discretion, may utilize other contractors to provide or perform the same or similar products, work, or services.

28. GOVERNING LAW, JURSDICTION, AND VENUE

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before an appropriate court in the State of Ohio and such courts shall be deemed to have jurisdiction and venue. The Parties hereby irrevocably consent to such applicable law, venue, and jurisdiction.

29. INCORPORATION OF EXHIBITS

The following exhibits are attached to this Agreement and by this reference incorporated into and made a part of this Agreement:

- Exhibit A - ESC Quote 21-0823-03Revised
- Exhibit B - ESC Quote 21-0823-02Revised II
- Exhibit C - ESC Quote 21-0823-03Revised
- Exhibit D - ESC Quote 21-1103-MW02Revised
- Exhibit E - ESC Quote 21-1105-MW01Revised
- Exhibit F - ESC Quote 21-0823-03
- Exhibit G – IRS W-9
- Exhibit H - OPERS Form
- Exhibit I - Non-Discrimination/Equal Opportunity/Civil Rights

To the extent that any terms and conditions of this Agreement conflict with those contained in the attached exhibits, the terms and conditions of this Agreement shall prevail.

30. HEADINGS

The subject headings of the paragraphs in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

31. DRAFTING

This Agreement shall be deemed to have been drafted by both Parties and no interpretation shall be made to the contrary.

32. SURVIVAL

Sections 2 (Scope of Services), 6 (Indemnity), 7 (Insurance), 8 (Warranty), 9 (No Confidentiality of Quotes), 11 (Access to Records), 12 (Retention of Records), 14 (Waiver), 15 (Notices), 19 (Prohibited Interest), 20 (Conflict of Interest), 22 (County/Court Policies), 23 (Audit), 28 (Governing Law, Jurisdiction, and Venue), 29 (Incorporation of Exhibits), 32 (Survival), 34 (Severability), 36 (Signatures), and 37 (Entire Contract) shall survive termination or expiration of this Agreement.

33. FORCE MAJEURE

The Parties shall be temporarily excused from performance under this Agreement and shall not be entitled to impose any penalty as a result of any delay in performance or interruption of payments caused by reason of war, insurrection, terrorism, riots, civil unrest, rebellions or revolutions in the

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United States or any nation where the obligations under this Agreement are to be executed, epidemic, pandemic, strike, supplier and third party failure, lockouts, or labor difficulties, automobile fuel shortage, weather, explosion, act of God, order of Court or other public authority, or any other cause beyond the reasonable control of the Parties. Such excusal from performance or interruption of payments shall continue until such force *majeure* ceases to exist or the Agreement is terminated as provided herein.

34. SEVERABILITY

The provisions of this Agreement are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provisions, to the extent enforceable, shall nevertheless be binding and enforceable.

35. COUNTERPARTS

This Agreement may be executed in counterparts.

36. SIGNATURES

Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.

37. ENTIRE CONTRACT

This Agreement, including its exhibits, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements/contracts relating to the subject matter hereof, whether written or oral, and may only be amended in writing with the mutual written and signed consent of the Parties.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

**9
RESOLUTION NO. 22-607**

IN THE MATTER OF APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS; THE DELAWARE COUNTY AUTOMATIC DATA PROCESSING BOARD AND THE BOARD OF TOWNSHIP TRUSTEES OF ORANGE TOWNSHIP FOR INFORMATION TECHNOLOGY SERVICES TO THE TOWNSHIP:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the County Auditor recommends approval of an Intergovernmental Cooperation Agreement with the Board of Township Trustees of Orange Township for Information Technology Services to the Township;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves an Intergovernmental Cooperation Agreement between the Delaware County Board of Commissioners, the Delaware County Automatic Data Processing Board, and the Board of Township Trustees of Orange Township for Information Technology Services to the Township:

INTERGOVERNMENTAL COOPERATION AGREEMENT

Section 1 – Parties to the Agreement

This Agreement is made and entered into this 28th day of July, 2022, by and between the Delaware County Automatic Data Processing Board and the Delaware County Board of Commissioners, 91 North Sandusky Street, Delaware, Ohio 43015 (collectively, the “County”), and the Board of Township Trustees of Orange Township, 1680 E. Orange Road, Lewis Center, Ohio 43035 (the “Township”), (hereinafter referred to individually as “Party” or collectively as the “Parties”).

Section 2 – Purpose

This Agreement is authorized by sections 9.482, 307.846, and 307.15, *et seq.*, of the Revised Code. The Township desires to enter into an agreement with the County that allows Delaware County Information Technology staff to provide Information Technology (“IT”) services to the Township, and the County is willing and able to provide such services. However, the County shall have no obligation to provide support for software or other products that the County does not also own and/or utilize. The County may provide other software support services at its discretion and subject to the prior approval of the County Chief Technology Officer. Township acknowledges that County projects are priority and that Township projects will be addressed as resources are available.

This Agreement shall establish the terms and conditions for the support of Township IT services.

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Section 3 – Division of Responsibilities

The Township shall pay, as specified below, for IT services provided. The County, via the Delaware County Data Center Administrator, shall administer the services on behalf of the Township, supervise the work of the staff, and advise the Township regarding IT projects. By entering into this Agreement, the Township authorizes the Delaware County Automatic Data Processing Board, its Director and staff to perform any and all actions, which in his/their professional judgment, are necessary to provide the services contemplated under the terms of this Agreement.

The specific services to be provided are more fully set forth in Exhibit A, which is attached hereto and, by this reference, fully incorporated herein.

Section 4 – Compensation

The Township agrees to pay to the County a monthly fee of \$250.00 per virtual server and \$12.00 per user account. Township and County agree there are currently two (2) virtual servers and eighty four (84) user accounts, and the Parties understand that the number of virtual servers and user accounts may increase or decrease.

The Township shall also, for all time exceeding fifteen (15) minutes in length that is spent on an individual service item, reimburse the County for the costs of personnel utilized in providing the service. County and Township acknowledge and agree that costs of personnel (salaries) will change as adjusted. This will be payable at the hourly rates set forth in Exhibit B, which is attached hereto and, by this reference, fully incorporated herein. The County shall submit monthly invoices that include the monthly fee and any reimbursable hourly charges incurred for the previous month. The Township shall pay all invoices within thirty (30) days of receipt thereof.

The Township may request for the County to provide document imaging services. The County will consult with the Township and develop a recommendation for imaging services. The Township recognizes the County has a significant investment in infrastructure to support the imaging system. The Township will pay for their own licenses that are required to complete the imaging project. Additionally the Township will pay the County \$300 per month for basic imaging services and storage up to 1TB. Imaging services will be available to the Township tentatively on or before October of 2022.

Section 5 – Records

- 5.1 County and Township acknowledge and agree that Township data received by County in the course of providing the IT services under this Agreement is taken delivery of solely under the authority stated above and only to provide automatic or electronic data processing, data storage services, and/or other IT services to Township.
- 5.2 County and Township acknowledge and agree that this data is not a public record [as defined in R.C. Section 149.011(G)] of the County or any of its offices, agencies, etc., that County is not the keeper or person responsible for any record contained in such data or otherwise responsible for providing inspection or copies of the same and that any records contained within the same shall at all times be considered Township records and not properly the subject of a public records request directed to the County under R.C. Section 149.43.
- 5.3 However, to assist Township in meeting its responsibilities:
 - (a) County will maintain full access by Township to the Township's data stored in its system.
 - (b) If County receives a public records request for Township records contained in such data, it will inform the requester that the information requested is not a public record of the County and that their request will be forwarded to the Township Fiscal Officer as the individual responsible for responses to requests for Township records. County will then immediately forward the request to the Township Fiscal Officer and advise them as to the circumstances of the request and its receipt.
 - (c) The County will provide technical assistance to the Township, as requested by the Township Administrator, in compiling and delivering Township data responsive to a public records request.
- 5.4 If the County should ever determine that it is legally compelled by any means (including public records request under R.C. 149.43, deposition, interrogatory, request for documents, subpoena, civil investigative demand, etc.) to disclose Township data received or stored under this Agreement, it must make reasonable efforts to provide Township with prompt notice of such legal requirement prior to disclosure so that Township may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, County will: (i) furnish only that portion of the data that it is legally required to furnish; and (ii) cooperate with Township in reviewing such material for appropriate redaction prior to disclosure.
- 5.5 Upon termination or expiration of this Agreement, County will return all Township data to Township and shall not retain copies of all or any portion of it within its system.
- 5.6 The Parties agree that each shall maintain their respective public records concerning the services provided under this Agreement, pursuant to the laws of the State of Ohio pertaining to public records. The Township acknowledges and agrees to the County's applicable records retention schedules.

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Section 6 – Term

This Agreement shall take immediate effect upon approval by all Parties hereto and shall continue in full force and effect for one year, whereupon this Agreement shall then automatically renew for a successive one (1) year term, unless either Party gives written notice to the other Party, at least thirty (30) days prior to the expiration of the then-current term, that it does not intend to renew the Agreement at the expiration of the then-current term. At least ninety (90) days prior to the expiration of the successive one (1) year renewal term, if it occurs, the Parties mutually agree to review the Agreement and the compensation stated herein in order to consider a replacement agreement. This Agreement may only be amended in writing with the mutual consent and agreement of the Parties. Either County or Township may terminate the Agreement upon providing thirty (30) days written notice to the other Party.

Section 7 – Legal Contingencies

In the event a change in law, whether by statute, judicial determination, or administrative action, affects this Agreement or the ability of the Parties to enter into, or continue to operate pursuant to, this Agreement, the Parties mutually agree to immediately institute a review of this Agreement. The Parties agree to negotiate in good faith to address any necessary modifications to this Agreement, to the extent permitted by applicable law.

Section 8 – Personnel

The Parties each agree to maintain control over their respective personnel, and this Agreement shall not be construed to alter the employment relationship each Party has with its respective personnel. Each Party shall be responsible for the compensation, benefits, and liabilities of its respective personnel and hereby agrees to release the other Party from any responsibility therefor. In no event shall County's employees be considered employees of the Township within the meaning or application of any federal, state or local laws or regulations and vice versa.

Section 9 – Equipment and Facilities

Each Party to this Agreement shall be responsible for providing its own equipment and facilities. In no way shall this Agreement be construed to require the sale or donation of equipment under the ownership and control of either Party of this Agreement.

Section 10 – Insurance and Liability

Each Party shall, for the life of this Agreement, maintain comprehensive general liability insurance coverage, with minimum limits in the amount of \$1,000,000.00 each occurrence or equivalent and \$2,000,000.00 in the aggregate, and shall cause the other Party to be named as an additional insured on any applicable insurance policies.

The Township acknowledges that there is a risk of disruption of service to its IT equipment and service due to damage to the fiber optic cable and other equipment or system failures beyond the control of the County. As a condition of this Agreement, the Township agrees to release the County from any liability or costs due to such disruption of service. Otherwise, the Parties acknowledge that they are political subdivisions of the State of Ohio and lack the authority to indemnify and therefore, each Party agrees to be responsible for the negligent acts of its employees, agents, and volunteers.

Section 11 – Miscellaneous Terms & Conditions

- 11.1 Entire Agreement:** This Agreement shall constitute the entire understanding and agreement between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof. This Agreement shall not be assigned.
- 11.2 Governing Law and Disputes:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. The Parties shall make good faith efforts to directly negotiate any disputes arising from this Agreement. If direct negotiations shall fail, the Parties agree to mediate the dispute with a mediator chosen by agreement between the Parties. If mediation shall fail, any and all legal disputes arising from this Agreement may only be filed in and heard before the courts of Delaware County, Ohio.
- 11.3 Headings:** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 11.4 Waivers:** No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 11.5 Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue in full force and effect.

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11.6 **Supersedes:** This Agreement supersedes any prior contracts or agreements between the Parties for the same or similar services.

EXHIBIT A

Provision by County of general IT services required for Township business including but not limited to:

1. Provision of dedicated file server for Township applications and data files
2. Provision of Township email
3. Provision of antivirus software (Township will pay for annual licenses)
4. Provision of a 400Mb shared Internet connection with the County
5. Provision of support of Extreme switches and access points at each location (Township will pay annual maintenance for equipment)
6. Provision of dedicated desktop support for Township owned equipment and Township users
7. The Township shall seek prior approval of the County Chief Technology Officer for any projects outside of Exhibit A, including but not limited to custom programming, prior to engaging IT staff.
8. Township Administrator shall be the Township’s primary contact for all communications and interactions with the Delaware County Automatic Data Processing Board, its director and staff for all specialized technical support and data processing services that are not considered to be routine maintenance or Help Desk support. Township understands that any project requiring these services requires planning and discussion with the Director so that the project can be scheduled accordingly with IT staff and other projects that may be a priority for the overall security and operations of County services.
9. By entering into this Agreement, the Township authorizes the Delaware County Automatic Data Processing Board, its Director and staff to perform any and all actions, which in his/their professional judgment, are necessary to provide the services contemplated under the terms of this agreement.
10. In the event the Township ceases use of software, the Township shall be solely responsible for any costs arising from the use, or cessation of use, thereof. The County shall not be required to assume any costs for Township software.
11. Township agrees to purchase and provide annual maintenance fees for multi factor authentication for all users who remotely connect to the county/township network.
12. Township acknowledges this agreement is for IT services and not phone system services. County acknowledges that there is some overlap and will work together with township and their phone system vendor to address issues but does not bear responsibility for phone system or daily support.
13. Township agrees to purchase and provide annual maintenance for Microsoft O365 at which point the County migrates from Microsoft Exchange.
14. Township acknowledges that because the O365 environment will integrate with the County network that the County will administer and maintain the administrator credentials for O365.
15. Township agrees to notify the County IT Director or Auditor immediately in the event of any potential data breach or unauthorized access to the Township network.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

10
RESOLUTION NO. 22-608

IN THE MATTER OF APPROVING A SERVICES AGREEMENT WITH COLOGIX US, INC. FOR THE DISASTER RECOVERY SITE:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Director of Information Technology recommends approval of the services agreement with Cologix for the Disaster Recovery Site;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the services agreement with Cologix US, Inc. for the Disaster Recovery Site.

(Copy available for review at the Commissioners’ Office until no longer of administrative value.)

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

11
RESOLUTION NO. 22-609

IN THE MATTER OF APPROVING TRANSFER OF APPROPRIATIONS FOR THE CORONER’S OFFICE:

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It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

Transfer of Appropriation		Amount
From	To	
10030301-5342	10030301-5201	\$5,000.00
Coroner/Medical & Health Related Services	Coroner/Supplies	

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

12

RESOLUTION NO. 22-610

IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH FEECORP CORPORATION FOR VACUUM BOX RENTAL AND SERVICES FOR THE DELAWARE COUNTY REGIONAL SEWER DISTRICT:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, sealed bids for Vacuum Box Rental and Services were received at the Office of the Delaware County Sanitary Engineer at 2:00 p.m. Monday, July 18, 2022; and

WHEREAS, one (1) bid was received, and the lowest and best bid received was from FeeCorp Corporation; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to FeeCorp Corporation;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the Vacuum Box Rental and Services to FeeCorp Corporation and directs the Sanitary Engineer to prepare the necessary Notice of Award and contract documents for submission to the contractor for execution;

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with FeeCorp Corporation:

VACUUM BOX RENTAL AND SERVICES

This Agreement is made and entered into this 28th day of July, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 91 North Sandusky Street, Delaware, Ohio 43015 (“County”), and FeeCorp Corporation, 7995 Allen Rd., Canal Winchester, Ohio 43110 (“Contractor”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONTRACTOR

1.1 The Contractor will provide vacuum box rental and services in accordance with the Bid Documents issued for such purpose on June 24, 2022, which are, by this reference, fully incorporated herein (the “Services”).

2 SUPERVISION OF SERVICES

2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the agent of the County for this Agreement.

2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

3 AGREEMENT AND MODIFICATIONS

3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

4 COMPENSATION

4.1 Compensation shall be based upon the unit price in Contractor’s Bid, which is, by this reference, fully incorporated herein.

5 NOTICES

5.1 “Notices” issued under this Agreement shall be served by U.S. Certified Mail on the Parties to the attention of the individuals listed below in writing. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County: Delaware County Regional Sewer District

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Name: Ricky Thomas

Address: 7767 Walker Wood Blvd., Lewis Center, Ohio 43035

Telephone: (740) 833-2226 Ext. 5103

Email: rthomas@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Mark DelMatto

Address of Firm: 7995 Allen Road

City, State, Zip: Canal Winchester, Ohio 43100

Telephone: 614-837-3010

Email: amesserly@feecorpinc.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with the Contractor's Bid Price.
- 6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word "Invoice" with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

7 SUSPENSION OR TERMINATION OF AGREEMENT

- 7.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.
- 7.2 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.
- 7.3 This Agreement shall expire one (1) year from the date of contract execution with the option to extend the length of the Agreement for up to two (2) additional one (1) year terms if mutually agreed in a writing signed by both Owner and Contractor.

8 INDEMNIFICATION

- 8.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 8.2 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

9 INSURANCE

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.

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- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

10 MISCELLANEOUS TERMS AND CONDITIONS

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 10.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 10.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 10.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, and Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement

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for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.

10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.

10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

13

RESOLUTION NO. 22-611

IN THE MATTER OF AWARDING A BID TO AND APPROVING A CONTRACT WITH BEAR ENVIRONMENTAL, LLC, FOR LIQUID SLUDGE HAULING SERVICES FOR THE DELAWARE COUNTY REGIONAL SEWER DISTRICT:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, sealed bids for Liquid Sludge Hauling Services were received at the Office of the Delaware County Sanitary Engineer at 2:00 p.m. Monday, July 18, 2022; and

WHEREAS, one (1) bid was received, and the lowest and best bid received was from Bear Environmental, LLC; and

WHEREAS, the Sanitary Engineer recommends awarding a contract to Bear Environmental, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners hereby awards the bid for the Liquid Sludge Hauling Services to Bear Environmental, LLC, and directs the Sanitary Engineer to prepare the necessary Notice of Award and contract documents for submission to the contractor for execution.

BE IT FURTHER RESOLVED that the Delaware County Board of Commissioners hereby approves the following agreement with Bear Environmental, LLC:

LIQUID SLUDGE HAULING SERVICES

This Agreement is made and entered into this 28th day of July, 2022, by and between the Delaware County Board of Commissioners, Delaware County, Ohio, 101 North Sandusky Street, Delaware, Ohio 43015 (“County”), and Bear Environmental LLC, 565 Metro Place South, Suite 300, Dublin, Ohio 43017 (“Contractor”), hereinafter collectively referred to as the “Parties”, and shall be known as the “Agreement.”

1 SERVICES PROVIDED BY CONTRACTOR

1.1 The Contractor will provide liquid sludge hauling services in accordance with the Bid Documents issued for such purpose on June 24, 2022, which are, by this reference, fully incorporated herein (the “Services”).

2 SUPERVISION OF SERVICES

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- 2.1 The Delaware County Board of Commissioners hereby designates the Delaware County Sanitary Engineer (“Sanitary Engineer”) as the agent of the County for this Agreement.
- 2.2 The Sanitary Engineer shall have authority to review and order changes, commencement, suspension or termination of the Services performed under this Agreement

3 AGREEMENT AND MODIFICATIONS

- 3.1 This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Contractor, shall supersede all prior understandings and agreements relating to the Services, and may only be modified or amended in writing with the mutual consent and agreement of the Parties.

4 COMPENSATION

- 4.1 Compensation shall be based upon the unit price in Contractor’s Bid, which is, by this reference, fully incorporated herein.

5 NOTICES

- 5.1 “Notices” issued under this Agreement shall be served by U.S. Certified Mail on the individuals listed below in writing. The Parties may use electronic communication for the purposes of general communication; however, e-mail shall not be used to transmit Notices.

County: Delaware County Regional Sewer District

Name: Jeff Hall
 Address: 6579 Moore Rd., Delaware, Ohio
 Telephone: (740) 833-2240
 Email: jhall@co.delaware.oh.us

Contractor:

Name of Principal in Charge: Shyam Rajadhyaksha, Principal
 Address of Firm: 565 Metro Place South, Suite 300
 City, State, Zip: Dublin, Ohio 43017
 Telephone: 614-686-7336
 Email: sraj@bearenv.com

6 PAYMENT

- 6.1 Compensation shall be paid periodically, but no more than once per month, based on invoices submitted by the Contractor and approved by the Sanitary Engineer and shall be in accordance with the Contractor’s Bid Price.
- 6.2 Invoices shall be submitted to the Sanitary Engineer by the Contractor on company letterhead clearly listing the word “Invoice” with a sequential invoice number provided. The County may request additional documentation to substantiate said invoices and the Contractor shall promptly submit documentation as needed to substantiate said invoices.
- 6.3 The County shall pay invoices within thirty (30) days of receipt.

7 SUSPENSION OR TERMINATION OF AGREEMENT

- 7.1 The County, upon written Notice as specified in Section 5, may suspend or terminate this Agreement at any time for the convenience of the County, at which time the Contractor shall immediately suspend or terminate Services, as ordered by the County.
- 7.2 In the case of termination, the Contractor shall submit a final invoice within sixty (60) days of receiving Notice of termination for Services completed up to the date of termination. The County is not liable for payment for Services performed after the date of termination.
- 7.3 This Agreement shall expire one (1) year from the date of contract execution with the option to extend the length of the Agreement for up to two (2) additional one (1) year terms if mutually agreed in a writing signed by both Owner and Contractor.

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8 INDEMNIFICATION

- 8.1 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury, sickness, disease or death or injury to or destruction of tangible property including the loss of use resulting therefrom, to the proportionate extent caused by any negligent acts, errors or omissions of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.
- 8.2 The Contractor shall indemnify and hold free and harmless Delaware County and its officials and employees from any and all damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result breach of contract, infringement of any right to use, possess, or otherwise operate or have any owned, protected, licensed, trademarked, patented, non-patented, and/or copyrighted software, product, service, equipment, invention, process, article, or appliance manufactured, used, or possessed in the performance of the Agreement and/or in providing the Services, to the extent caused by any act, error, or omission of the Contractor, its employees, agents, subcontractors, and their employees and agents' subcontractors and their employees or any other person for whose acts any of them may be liable.

9 INSURANCE

- 9.1 General Liability Coverage: Contractor shall maintain commercial general liability insurance of \$1,000,000 each occurrence with an annual aggregate of \$2,000,000. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.2 Automobile Liability Coverage: Contractor shall maintain automobile liability insurance of \$1,000,000 each accident. Such coverage shall include coverage for owned, hired and non-owned automobiles. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.3 Workers' Compensation Coverage: Contractor shall maintain workers' compensation coverage as required by the laws of the State of Ohio. Identical coverage shall be required to be provided by all subcontractors, if any.
- 9.4 Additional Insureds: Delaware County, its elected officials and employees, shall be named as additional insureds with respect to all activities under this Agreement in the policies required by Subsections 9.1 and 9.2. Contractor shall require all of its subcontractors to provide like endorsements.
- 9.5 Proof of Insurance: Prior to the commencement of any work under this Agreement, Contractor, and all of its subcontractors, shall furnish the County with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the County. Contractor will replace certificates for any insurance expiring prior to completion of work under this Agreement.

10 MISCELLANEOUS TERMS AND CONDITIONS

- 10.1 Prohibited Interests: Contractor agrees that no agent, officer, or employee of the County during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Contractor further agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this Agreement, without the prior express written consent of County.
- 10.2 Independent Contractor: The Parties acknowledge and agree that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**
- 10.3 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.
- 10.4 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 10.5 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other

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provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

- 10.6 Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 10.7 Findings for Recovery: Contractor certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio.
- 10.8 Authority to Sign: Any person executing this Agreement in a representative capacity hereby warrants that he/she has authority to sign this Agreement or has been duly authorized by his/her principal to execute this Agreement on such principal's behalf and is authorized to bind such principal.
- 10.9 County Policies: The Contractor shall adhere to all applicable Delaware County policies, including, but not limited to, the following: Discrimination Policy, Ethics Policy, and Contractor Safety Policy. The Contractor shall require any and all of its boards, board members, officers, officials, employees, representatives, agents, and/or volunteers performing work under this Agreement and/or for or on behalf of the County to comply with all applicable Delaware County policies and shall be responsible for such compliance. The County may, in its sole discretion, immediately terminate this Agreement for failure of the Contractor to comply with this Subsection. Copies of applicable policies are available upon request or online at <http://www.co.delaware.oh.us/index.php/policies>. The County reserves the authority to change, amend, replace, enact, repeal, and/or rescind any or all of the policies at any time and without notice.
- 10.10 Drug-Free Workplace: The Contractor agrees to comply with all applicable federal, state, and local laws regarding drug-free and smoke-free workplaces and environments and shall have established and have in place a drug-free workplace policy. The Contractor shall make a good faith effort to ensure that all of its employees and subcontractors engaged in the work being performed hereunder will not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs.
- 10.11 Non-Discrimination/Equal Opportunity: Contractor hereby certifies that, in the hiring of employees for the performance of work under this Agreement or any subcontract, that neither it nor any subcontractor, by reason of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

Contractor further certifies that neither it nor any subcontractor, or person acting on behalf of it or any subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in section 4112.01 of the Revised Code, national origin, or ancestry.

Contractor certifies that it has a written affirmative action program for employment and effectively utilizes economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code.

Contractor certifies that it complies with all applicable laws regarding Non-Discrimination / Equal Opportunity and will not discriminate.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

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TIFFANY MAAG,
DIRECTOR OF ENVIRONMENTAL SERVICES AND REGIONAL SEWER DISTRICT
MONTHLY SANITARY APPROVAL UPDATE TO BOARD OF COMMISSIONERS

15
RESOLUTION NO. 22-612

**IN THE MATTER OF APPROVING AN AMENDMENT TO THE SERVICES AGREEMENT
BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS AND PERRY PRO**

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TECH, INC., FOR COPIERS AND COPIER MAINTENANCE SERVICES FOR DELAWARE COUNTY:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the County Administrator recommends approval of an amendment to the agreement between the Delaware County Board of Commissioners and Perry Pro Tech, Inc., for Copiers and Copier Maintenance Services for Delaware County;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners approves the amendment to the agreement with Perry Pro Tech, Inc., for Copiers and Copier Maintenance Services for Delaware County, as follows:

**AMENDMENT NO. 1 TO SERVICES AGREEMENT
Delaware County Copiers and Copier Maintenance**

This Amendment No. 1 to the services Agreement dated July 29, 2021 (the "Agreement") is made and entered into on July 28, 2022, by and between the Delaware County Board of Commissioners, 91 North Sandusky Street, Delaware, Ohio 43015 ("County"), and Perry Pro Tech, Inc., 545 West Market Street, Lima, Ohio 45801 ("Contractor"), hereinafter collectively referred to as the "Parties."

ARTICLE 1 - AMENDMENT

Pursuant to section 3.1 of the Agreement, the Parties mutually agree to amend Section 7.2 of the Agreement by deleting the existing text and replacing it with the following:

7.2 This Agreement shall have an initial term that runs through July 31, 2027 (the "Initial Term").

ARTICLE 2 - REMAINING PROVISIONS

All other terms and conditions of the Agreement not specifically amended herein shall remain in full force and effect.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

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RESOLUTION NO. 22-613

IN THE MATTER OF APPROVING A SOFTWARE AGREEMENT BETWEEN THE DELAWARE COUNTY BOARD OF COMMISSIONERS, FOR AND ON BEHALF OF DELAWARE COUNTY EMS, AND CARMINATI CONSULTING, INC., FOR THE USE OF IMMUWARE™ SOFTWARE AS A SERVICE SOFTWARE PLATFORM:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, the Delaware County Director of Emergency Medical Services and staff recommend approval of a software agreement between the Delaware County Board of Commissioners, for and on behalf of Delaware County EMS, and Carminati Consulting, Inc., for the use of Immuware™ Software as a Service Software Platform;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the software agreement between the Delaware County Board of Commissioners, for and on behalf of Delaware County EMS, and Carminati Consulting, Inc., for the use of Immuware™ Software as a Service Software Platform, as follows:

SOFTWARE AGREEMENT

This Agreement (“Agreement”) between Carminati Consulting, Inc. (“Carminati Consulting” or “we”) and the Delaware County Board of Commissioners, for and on behalf of Delaware County EMS. (“Customer”) (each a “Party” and collectively “Parties”) is effective as of 6/22/2022 (“Effective Date”) and sets forth the understanding between Carminati Consulting, Inc. and Customer for the use of Immuware™ Software as a Service (“SaaS”) Software Platform (“Immuware” or “Software”), services and materials. The Parties are entering into a Statement of Work (“Statement of Work”) (attached as Exhibit A to this Agreement and incorporated herein) which outlines the scope of the work to be performed by Carminati Consulting (“Services”) to set up and enable the use of Immuware by Customer. Carminati Consulting, which owns the Software, agrees to license the Software to Customer pursuant to the terms and conditions in this Agreement.

You may not access Immuware if you are a direct competitor of Immuware, except with Carminati Consulting’s prior written consent.

1. License.
- 1.1 Subject to the terms and conditions of this Agreement, and during the Term (as defined in the

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STATEMENT OF WORK), Carminati Consulting will provide Customer with a non-exclusive, non-transferable and revocable license to access and use the Software. Customer may use the Software only for purposes of performing Customer's internal operations or Customer's clients' business operations outsourced to Customer ("Licensed Uses"). In no event will Customer have the right to sub-license the Software to any third party or use the Software for any other purpose beyond the Licensed Uses.

1.2 Carminati Consulting restricts the Customer's duplication and use of the Software; it prohibits the Customer from licensing, sublicensing or transferring the software to a third party (except to a related party) without the permission and continued control of Carminati Consulting. Customer may not use the Software as part of a commercial time-sharing or service-bureau operation or in any other resale capacity.

1.3 Customer shall be responsible for any and all screening, filtering or other means to comply with applicable Federal, State or local laws and regulations regarding content passing to and from the internet and the Customer.

1.4 Except for the license rights granted under this Agreement, no other rights to Carminati Consulting or the Software are granted to Customer hereunder, and the Software is and will remain the sole and exclusive property of Carminati Consulting and its licensors, if any, whether the Software is separate or integrated with any other products, services or deliverables.

1.5 Access is limited to the version of the Software in its production environment. Carminati Consulting may from time to time, at its sole discretion, update the Software and reserves the right to add and/or substitute functionally equivalent features in the event of product unavailability, end-of-life, or changes to software requirements.

1.6 Carminati Consulting will provide Customer online access to and use of the Software via the Internet by use of an Internet browser. The Software will be hosted on a server that is maintained by Carminati Consulting or its designated third-party supplier or domestic data center. Customer is solely responsible for obtaining and maintaining at its own expense, all equipment needed to access the Software, including but not limited to Internet access and adequate bandwidth.

1.7 DEFINITIONS

1.7.2 "Software" means the Immuware™ software platform developed and licensed by Carminati Consulting and any related updates provided to the Customer.

1.7.3 "Services" shall mean the work done by Carminati Consulting personnel in support of the Software, including but not limited to installation services, training, consulting, support, telephone support, and such other services as may be defined in an accepted Statement of Work.

2. Ownership.

Carminati Consulting retains all rights in and to the Software, including rights of ownership, trademarks, copyright, and any other associated intellectual property. All existing intellectual property rights in the Software and the associated goodwill inures to the sole benefit of Carminati Consulting.

3. Compensation.

The Parties agree to the cost, compensation, and fee schedule in the Statement of Work. Carminati Consulting will notify Customer in advance of any proposed changes in pricing and fees in future Statements of Work.

4. Term.

This Agreement begins on the Effective Date and continues as stated on the Statement of Work unless terminated earlier in accordance with this Agreement. If the term spans several years and the Statement of Work specifies Annual Fees, then fees are due in each year ("Contract Year") or as otherwise specified.

5. Termination.

5.1 If Customer is dissatisfied because of substantial non-performance of the Software and/or Services, Customer shall give Carminati Consulting detailed written notice of such dissatisfaction. Carminati Consulting shall have thirty (30) days to cure the substantial non-performance after receipt of such notice. If Carminati Consulting fails to cure such substantial non-performance within such thirty (30) day period, Customer may terminate this Agreement and the applicable Statement of Work and Carminati Consulting will refund the total annual License fees paid in the year of termination prorated based on the number of months remaining in the year of termination starting as of at the end of the thirty (30) day cure period.

5.2 Either Party may terminate the Agreement if:

a) the other Party breaches any material term or condition and fails to cure within thirty (30) days of written notice, or

b) the other party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, liquidation or receivership.

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5.3 In the event of non-payment by the Customer, Carminati Consulting may, with notice, accelerate and declare all sums due, and to become due under the Statement of Work, immediately payable without further notice or demand. If Customer fails to pay fees when due, then Customer shall also be liable for all fees due during the term of the Statement of Work Agreement.

5.4 In the event of non-payment by the Customer, Carminati Consulting reserves the right to restrict access to the Services. Customer agrees that such restrictions do not modify the past due amounts due under their Statement of Work.

5.5 Carminati Consulting reserves the right to suspend support services hereunder (without terminating this Agreement) in the following circumstances if as reasonably determined by Carminati Consulting: (a) Customer's requests for support are overly excessive or duplicative of prior requests for issues that have already been addressed by Carminati Consulting; (b) Customer's requests relate to the general use of the Services that are addressed via Carminati Consulting's training and resources or which a person, using reasonable efforts, can perform after completing the Software training; or (c) Customer is abusive or offensive toward Carminati Consulting's personnel. If Carminati Consulting suspends the support services hereunder due to any of the foregoing reasons the Parties shall cooperate in good faith to agree upon a way to restore the support services as soon as possible.

5.6 Upon termination, cancellation or expiration of this Agreement by either Party, Customer shall, without request by Carminati Consulting, immediately return all papers, materials and property of Carminati Consulting held by Customer. In addition, each Party will assist the other in the orderly termination of this Agreement and in the transfer of all property, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each Party.

6. Responsibilities of Parties.

6.1 Customer is responsible for any use of the Software, including without limitation for any data, materials and content (including the adequacy and accuracy thereof) uploaded to or transmitted using the Software by its employees or agents.

6.2 Customer represents and warrants that all data, materials and content ("Customer Data") it provides for use with the Software is owned by Customer or Customer otherwise has the right to provide such Customer Data to Carminati Consulting for use with the Software. Customer also represents and warrants that any use or transmission of Customer Data does not and shall not violate or infringe the intellectual property, privacy or publicity rights of any third party.

6.3 The Software provides optional configurable integrations with various external third-party software applications. Carminati Consulting is not responsible for any misconfiguration, data corruption or data loss in any external application resulting from the use of such integrations.

6.4 Customer will be responsible for providing an accurate data file to adhere to the template provided by Carminati Consulting. Carminati Consulting will be responsible for training Customer on the data import procedures.

6.5 Carminati Consulting will assign Customer user IDs and passwords that will enable Customer's users to access the Software. Customer shall take all reasonable precautions to protect against theft, loss or fraudulent use of such Customer's IDs and passwords, and are solely responsible for any losses arising from a third party's use of such IDs and passwords, either with or without Customer knowledge. Each user ID is unique to the assigned individual and may not be shared with others, including other personnel of Customer. Customer agrees that Customer will use the Software only for lawful purposes and in accordance with this Agreement. Customer will not reverse engineer, disassemble or decompile the Software or cause or permit the reverse engineering, disassembly or decompilation of the Software.

6.6 Customer represents and warrants that it is not and will not provide the Software to any entity incorporated in or resident in a country subject to economic or trade sanctions by the U.S. State Department and/or OFAC or are listed as a "Specially Designated National," a "Specially Designated Global Terrorist," a "Blocked Person," or similar designation under the OFAC sanctions regime. Any breach of this Section 6.6 shall be deemed a material breach of this Agreement and Carminati Consulting may immediately terminate this Agreement.

7. Confidentiality.

7.1 Each Party receiving Confidential Information hereunder ("Recipient") agrees that:

- a) it will treat all Confidential Information of the other Party with the same degree of care as such Recipient accords to its own Confidential Information, but in no case less than reasonable care; and
- b) it will not use, disseminate, or disclose to third parties any Confidential Information of the disclosing Party ("Discloser"), except for the purpose of providing the Software Services and for any other purpose Discloser may authorize.

7.2 For purposes of this Agreement, "Confidential Information" means any information, regardless of form, proprietary to or maintained in confidence by either Party, including, without limitation, Customer Data,

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personally identifiable information (PII), technical data or know-how relating to discoveries, ideas, inventions, software, designs, specifications, processes, systems, diagrams, research, development, business plans, strategies or opportunities, and information related to finances, costs, prices, suppliers, vendors, customers and employees which is disclosed by either party or on its behalf whether directly or indirectly, orally, visually, or in writing, to the other party or any of its employees or agents.

7.3 Notwithstanding Section 7.2, the terms and conditions of this Agreement and any order for Carminati Consulting software or services shall not be deemed the Confidential Information of either Carminati Consulting and Customer.

7.4 Recipient will have no obligation with respect to any portion of the Confidential Information which:

a) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known or available to the public;

b) was acquired by Recipient before receiving such information from Discloser and without restriction as to use or disclosure;

c) is hereafter rightfully furnished to Recipient by a third party, without restriction as to use or disclosure;

d) is information that was independently developed by Recipient without reference to Confidential Information received hereunder; or

e) is disclosed with the prior written consent of Discloser.

7.5 Recipient may disclose Confidential Information pursuant to the requirements of a governmental agency or operation of law, provided that it gives Discloser reasonable advance notice sufficient to contest such requirement of disclosure, unless Recipient is prevented from providing such notice by the government agency or operation of law.

8. Ownership and Use of Data.

8.1 During the Term of the Agreement, Customer grants to Carminati Consulting a limited, non-exclusive right to use the Customer Data and to disclose Customer Data to third party service providers including but not limited to, integrated public health and specialized registries solely for Carminati Consulting to operate the Software as expressly designated in any Statement of Work.

8.2 Customer retains any and all rights it may possess to Customer Data provided by Customer to Carminati Consulting or collected from others by Carminati Consulting on behalf of Customer. Such Customer Data will only be used by Carminati Consulting as reasonably required for providing the Software as contemplated hereunder and in accordance with the Carminati Consulting Cyber Security Policy, and all applicable data privacy laws and regulations (collectively, "Data Privacy Policy and Rules"). Both parties agree to comply with the Data Privacy Policy and Rules.

8.3 Subject to the terms of this Section, Customer acknowledges and agrees that Carminati Consulting may use all data inputted into or collected by the Software, including but not limited to data related to Software utilization and Customer Data, on a historical, aggregated, de-identified and anonymous basis (collectively, "Aggregate Data") in compliance with all applicable laws and Carminati Consulting's Privacy Policy to provide the Software to Customer. Aggregate Data shall not identify Customer as the source of any specific data, pattern or finding, nor shall it include any Sensitive Personal Information entered or stored in the Software or its databases. Carminati Consulting shall maintain appropriate security measures for all Aggregate Data in accordance with the terms and conditions of this Agreement.

8.4 Carminati Consulting will not disclose or share personally identifiable information (PII) collected in the Software (including any PII included in Customer Data) with any third party (except as required by law, pursuant to a governmental request, in which case Carminati Consulting will provide written notice to Customer prior such disclosure or sharing or for the purposes of providing Customer the Software Services).

8.5 Immuware is hosted on Microsoft Azure and uses Geo Redundant Storage for the database backups, meaning multiple replicas are kept in a primary region and multiple replicas are kept in a secondary region, hundreds of miles away. The database is backed up every 5-10 minutes and backups are retained for 35 days. Point in Time restores are available for up to 35 days, additional costs may apply for Point in Time restore (database recovery). Additional long term backups can be configured on a schedule if requested by the customer for an additional charge.

8.6 Upon termination of contract, Carminati Consulting will, provided Customer is not in breach of any of its obligations under the Agreement and upon Customer's payment of the applicable fees, provide access to customers' data as defined in the Immuware Statement of Work. The exported data file(s) will be available for 30 days, after the 30 days, Immuware will permanently destroy customer's data. To request a different retention period, the customer can provide written notification 30 days prior to termination, additional costs may apply. After such thirty (30)-day period, Carminati Consulting shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data maintained in its production systems.

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9. Warranties; Indemnification.

9.1 Carminati Consulting represents and warrants that: (i) the Services shall be performed in a competent, professional, workman-like manner, in accordance with current industry standards; (ii) Carminati Consulting's employees who provide Services shall be qualified to perform the tasks and functions which they are assigned; (iii) the Software shall perform in all material respects in accordance with the applicable specifications, user guides and documentation provided to Customer by Carminati Consulting and the media on which the Software resides will be free from defects in materials and workmanship under normal use. In the event of a breach of any of these warranties, in addition to any other remedies that may exist in law or in equity, Customer may require re-performance of the applicable Services at Carminati Consulting's expense.

9.2 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE SERVICES AND THE SOFTWARE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND CARMINATI CONSULTING DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. CARMINATI CONSULTING DOES NOT REPRESENT OR WARRANT BUT WILL MAKE COMMERCIALY REASONABLE EFFORTS TO ENSURE THAT THE SERVICES ARE UNINTERRUPTED OR ERROR-FREE, AND THAT DEFECTS WILL BE CORRECTED.

9.3 Carminati Consulting will indemnify, defend, and hold Customer, its officers, directors, employees, agents, and contractors, harmless from and against any and all liabilities, damages, costs, and expenses (including reasonable attorneys' fees) ("Losses") incurred by any of such parties in connection with any third-party action, claim, or proceeding (each, a "Claim") arising from: (i) breach of Carminati Consulting's representations and warranties hereunder; (ii) gross negligence or willful misconduct of Carminati Consulting, its employees, agents or contractors; or (iii) infringement, misappropriation or violation of any third party intellectual property rights caused by the Software and/or the Services and/or either party's use thereof.

9.4 In the event that Carminati Consulting reasonably determines that the Software is likely to be the subject of a Claim of infringement, violation, or misappropriation of third-party rights, Carminati Consulting will have the right, at its own expense, to: (a) procure for Customer the right to continue to use the Software as provided in this Agreement; (b) replace the infringing components of the Software with other components with equivalent functionality; or (c) suitably modify the Software so that it is non-infringing and functionally equivalent. If none of the foregoing options are available to Carminati Consulting on commercially reasonable terms, Carminati Consulting may terminate this Agreement and provide a pro-rata refund to Customer of the unused portion of the fees prepaid by Customer.

10. Limitation of Liability.

10.1 SOFTWARE - Carminati Consulting warrants that, during the term, the Software will perform in all material respects in accordance with the accompanying user guides, and the media on which the Software Product resides will be free from defects in materials and workmanship under normal use. Carminati Consulting shall not be liable to the Customer for any claims, damages or compensations suffered by the Customer, including, but not limited to, losses or damages of any and every nature, resulting from the loss of data, changes to data, inability to access any Software or Services, or inability to transmit or receive information, caused by, or resulting from, delays, non-deliveries, or service interruptions whether or not caused by the fault or negligence of Carminati Consulting.

10.2 Each Party's liability to the other Party, its affiliates, registered agents, assignees, registrants or any third party claims, for claims seeking indemnity, or for any recoverable losses, damages, or litigation and attorneys' fees or costs arising under this Agreement including any Statement of Work shall be limited to the amount of actual direct damages, not to exceed (in the aggregate for all claims) the total annual amount paid under the Statement of Work Agreement during its then-current Contract Year at the time of the incident giving rise to liability. If no fee is paid to Carminati Consulting, Carminati Consulting does not retain any liability.

10.3 IN NO EVENT WILL CARMINATI CONSULTING OR THE SOFTWARE OR ANY PERSON OR ENTITY INVOLVED IN THE CREATION, MANUFACTURE OR DISTRIBUTION OF ANY SOFTWARE, SERVICES OR OTHER MATERIALS PROVIDED UNDER THIS AGREEMENT BE LIABLE OR INDEMNIFY THE OTHER PARTY FOR:

- a) ANY DAMAGES CAUSED BY CUSTOMER'S FAILURE OR THAT OF CUSTOMER'S CLIENTS, INVITEES, EMPLOYEES, AGENTS, AFFILIATES OR SUPPLIERS TO PERFORM THEIR RESPONSIBILITIES UNDER THIS AGREEMENT;
- b) ANY CLAIMS OR DEMANDS OF THIRD PARTIES OR
- c) ANY LOST PROFITS, LOSS OF BUSINESS, BUSINESS INTERRUPTION, COST OF COVER, LOSS OF USE, LOSS OF DATA, LOST SAVINGS OR OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF CARMINATI CONSULTING, THE SOFTWARE OR SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED

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AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.4 NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EXCEPT AS MAY BE PAYABLE PURSUANT TO (A) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT; (B) BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY; (C) ANY INFRINGEMENT AND/OR MISAPPROPRIATION BY ONE PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; OR (D) CLAIMS SUBJECT TO INDEMNIFICATION UNDER THIS AGREEMENT.

10.5 Carminati Consulting shall not be bound by any representations or statements on the part of its employees or agents whether oral or in writing including those made in catalogues and other promotional material.

10.6 These limitations of liability will survive and apply notwithstanding insurance coverage or the failure of any limited or exclusive remedy for breach of warranty set forth in this Agreement.

11. Sensitive Personal Information.

11.1 Notwithstanding any provision to the contrary in this Agreement, Customer acknowledges and agrees that use of the Software may result in transmission, entry, processing or storage of Sensitive Personal Information (as defined below) and therefore Customer shall be responsible for any such use of the Software by its employees, agents or subcontractors.

11.2 "Sensitive Personal Information" shall be defined as:

- a) social security numbers;
- b) passport numbers or other government issued id numbers, date of birth and/or gender, except solely to the extent required by applicable regulations of the Department of Homeland Security or other government regulatory body;
- c) health or medical information, including, but not limited to, protected health information ("PHI") as defined in the Health Insurance Portability and Accountability Act; and

11.3 other information which a reasonable person would recognize as being highly sensitive, including but not limited to, financial account numbers, credit card numbers, and debit card numbers, with or without any required security code, access code, personal identification number or password, that would permit access to a financial account (but excluding, for avoidance of doubt, contact information such as name, mailing address, email address, and phone number). Safeguards to Protect Sensitive Personal Information. Carminati Consulting agrees not to use or disclose Sensitive Personal Information other than as permitted or required by this Agreement or as required by the applicable laws.

11.4 Mitigation. Carminati Consulting agrees to mitigate, to the extent practicable, any damages or harmful effect that are known to Carminati Consulting due (whether directly or indirectly) to a use or disclosure of Sensitive Personal Information by Carminati Consulting in violation of the requirements of this Agreement.

11.5 Report Violation. Carminati Consulting agrees to report to Customer any use or disclosure of Sensitive Personal Information not permitted by this Agreement of which it becomes aware, including any such use or disclosure by any subcontractor of Carminati Consulting.

11.6 Apply Same Restrictions to Subcontractors. Carminati Consulting agrees to ensure that any subcontractor or third party service provider that creates, receives, maintains, or transmits Sensitive Personal Information, on behalf of Carminati Consulting, agrees to the same restrictions, conditions, and requirements that apply to Carminati Consulting with respect to such information.

11.7 Restrict Use or Disclosure of Sensitive Personal Information for Sale, Marketing or Fundraising. Carminati Consulting will not use or disclose Sensitive Personal Information for sale, marketing or fundraising.

11.8 Obligations of Customer Regarding Sensitive Personal Information. To the extent that it may substantially impact Carminati Consulting's use or disclosure of Sensitive Personal Information, Customer agrees to inform Carminati Consulting in writing of: any limitation in its Notice of Privacy Practices or Policies, any changes to or revocation of authorization with respect to Sensitive Personal Information or any restriction to a use or disclosure agreed to by Customer with respect to Sensitive Personal Information.

12. Notice.

Any notice pursuant to this Agreement shall be in writing and shall be deemed to have been duly given (a) five (5) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid,

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with return receipt requested; (b) when delivered if delivered personally or sent by express courier service; (c) when transmitted if sent by a confirmed facsimile; or (d) when transmitted via email, provided that the receiving Party acknowledges receipt by return email, and that the email clearly states in the subject line that it is intended to give notice under this Agreement.

Notices to Customer: [Rachael Cox]
[Assistant Chief of Administration]
[10. Court St Delaware OH 43015]
[emsadmin@co.delaware.oh.us]
740-833-2194

13. Non-solicitation.

Customer agrees that its organization and affiliates, will not attempt to hire, or assist in hiring anyone currently employed by Carminati Consulting, except insofar as such recruitment results from a general solicitation of employment not specifically directed towards employees or subcontractors Carminati Consulting. Customer further agrees that should such a situation occur; Carminati Consulting would be caused irreparable harm and be entitled to injunctive relief.

14. Proprietary Rights.

14.1 Customer acknowledges that Carminati Consulting, the Software or its licensors retain all copyright, trademark, trade secret, patent and other proprietary and intellectual property rights to the Software, and any or all modifications to the Software, related documentation and marketing materials regardless of:

- a) whether such intellectual property notices appear on the materials; or
- b) whether such intellectual property notices have been filed with governmental agencies.

14.2 Nothing in this Agreement will directly or indirectly be construed to assign or grant Customer any right of ownership, title or interest in the Software, or any intellectual property rights relating thereto.

14.3 Customer agrees that it shall not disclose to anyone any proprietary or confidential or sensitive personal information which Customer may receive through the Software or Software Services which may have access to on the Software, and that Customer will not use any such information to compete against Carminati Consulting or the Software or reverse engineer our product offerings. No competitors or obvious future competitors are permitted access to the Software or Services, and any such access by third parties is unauthorized.

14.4 Customer agrees that it will not copy, record, publish, compile, reproduce, republish, use or resell for any competing commercial purpose any information found in the Software or which Customer receives through our Services.

14.5 To the best of Carminati Consulting's knowledge, all material published by Carminati Consulting's on its web pages and other media properties, are done in full agreement with the original copyright owners (be that Carminati Consulting or another party). If Customer comes across a situation where Customer suspects that this may not be the case, in accordance with the Digital Millennium Copyright Act (DMCA), we ask that Customer contact:

Carminati Consulting, Inc.
RE: Immuware
55 W. Monroe St. Suite 1655
Chicago, IL 60603
(312) 884-9054
info@carminaticonsulting.com

Customer understands and agrees that any third party data, content, materials or software ("Third Party Content") which may be published on Immuware or any other Carminati Consulting Sites or otherwise made available by Carminati Consulting may be subject to third party licenses, that such licenses may be altered or revoked at any time by the applicable third party licensor, and that removal or alteration of Third Party Content shall not constitute a breach of this Agreement. In addition, to the extent Carminati Consulting provides access to integrated third party systems through the Services ("Third Party Add-On") hereunder (as expressly designated in a Statement of Work) and such Third Party Add-On becomes unavailable to Customer due to termination or revocation by such third party prior to the expiration or termination of the Statement of Work, then Carminati Consulting may terminate Customer's access to the Third Party Add-On upon notice and such termination shall not constitute a termination or a breach of this Agreement or any Statement of Work. Access to Third Party Content (including Third Party Add-Ons) may require Customer to execute a separate third party service agreement ("Third Party Service Agreement"), and Customer understands and agrees that Carminati Consulting shall not incur any liability or have any responsibility with respect to performance or any other aspect of a Third Party Service Agreement.

15. Assignment.

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Except for assignment to a Party's affiliate (any entity which directly or indirectly controls, is controlled by, or is under common control with such party), or in the case of a merger, acquisition or sale of all or substantially all assets not involving a direct competitor of the other Party, neither Party may assign or otherwise transfer any right or obligation set forth in the Agreement without the other Party's prior written consent, not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Carminati Consulting may subcontract the provision of Services in whole or in part to a Carminati Consulting affiliate. This Agreement will be binding upon the Parties' respective successors and permitted assigns.

16. Entire Agreement; Severability; Waiver.

This Agreement, together with all attachments and Statements of Work, supersedes any prior agreement or understanding between the Parties whether oral or written in relation to its subject matter. This Agreement may only be modified by a written amendment signed by authorized representatives of each Party. Any additional or conflicting terms contained in any Customer purchase order, proposal, quote or other document shall be deemed to be rejected by Carminati Consulting without need of further notice of objection, even if such document is acknowledged or accepted by Carminati Consulting and regardless of any statement to the contrary which may be contained therein, and shall be of no effect or in any way binding upon Carminati Consulting. The provisions of this Agreement shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any other provisions. Carminati Consulting's failure to exercise or enforce any right, power or remedy under this Agreement shall not operate as a waiver thereof.

17. Force Majeure.

Carminati Consulting will not be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God, criminal acts, Distributed Denial of Service, or any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, criminals, failures or delays in transportation or communications, or any act or failure to act by Customer, its employees, agents, or contractors. The Parties will promptly inform and consult with each other as to any of the above causes that, in their judgment, may or could be the cause of a substantial delay in the performance of this Agreement. Carminati Consulting is not liable for excusable delay

18. No Third Party Beneficiaries.

This Agreement is not intended to, and does not confer any rights, benefits or remedies upon any person other than the Parties.

19. Press Releases; Customer List.

Carminati Consulting shall not use Customer's name and logo to identify Customer as one of the Software's Customers on Carminati Consulting or Immuware websites without Customer's prior approval in Customer's sole discretion. Additionally, Carminati Consulting shall not issue a press release identifying Customer as a Software Customer without Customer's prior approval in Customer's sole discretion.

20. Independent Contractor. The Parties acknowledge and agree that Carminati Consulting is acting as an independent contractor under this Agreement and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Parties. Carminati Consulting also agrees that, as an independent contractor, it assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. By executing this Agreement, Carminati Consulting hereby certifies that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.

21. Governing Law; Venue.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall only be filed in and heard before the courts of Delaware County, Ohio.

22. Findings for Recovery; Debarment.

By executing this Agreement, Carminati Consulting hereby certifies that it has no unresolved findings for recovery pending or issued against it by the State of Ohio. Carminati Consulting further certifies that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Carminati Consulting acknowledges and agrees that Customer is required to confirm the certification contained herein and that listing on the exclusions shall immediately void this Agreement and any obligations hereunder.

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23. Drug-Free Workplace; Equal Employment Opportunity.

Carminati Consulting shall, for the entire Term of this Agreement, comply with all applicable Federal, State, and Local laws and regulations pertaining to drug-free workplace, non-discrimination, and equal employment opportunity.

ATTACHMENT A

Immuware Statement of Work

This Statement of Work (SOW) is for the setup, configuration and maintenance of the Immuware™ software as a service (“SaaS”) solution for Delaware County EMS. (“Customer”).

Immuware will be setup and configured with the following Immuware “Record Types”:

Record Types	
Annual Health Risk Assessment	Coronavirus (COVID-19) Vaccine
Charting & Notes	Coronavirus (COVID-19) Testing
Hepatitis C	Hepatitis A Vaccine (with Titers)
Respirator / PAPR Suit Fit Testing (OSHA Questionnaire)	Hepatitis B Vaccine (with Titers)
Pre-employment Health Screening (Medical History)	Influenza Vaccine
Training Completion and Due Dates (Maximum 10)	Measles, Mumps, Rubella (with Titers)
Tuberculosis (Exposures) / Tuberculosis Annual Screening	Meningococcal ACWY & B Vaccine
Pneumococcal Vaccine	Tdap/Td Vaccine (Tetanus, Diphtheria, and Pertussis)
Varicella-Zoster Vaccine (with Titers)	

1. Core Application License

Core Application License Includes:

- Access to 17 record types as indicated above for up to 150 active personnel/user records (employees, contractors, volunteers, etc.). Current personnel level is approximately 130 personnel.
- Web application & server maintenance
- Upgrades
- **25** annual support hours
- One (1) requirement gathering session via web conference
- All upgrades during contract period
- Automated email notifications to employees, supervisors or administrators
- Customer’s branding and URL
- Supervisor Access to reports and dashboards
- Compliance dashboards and NHSN reporting
- Employee compliance requirement setting (required, not required, preferred)

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- Secure Microsoft® Azure Cloud production hosting environment setup
- One (1) 2-hour training webinar during the Implementation Phase (Year 1)
- One (1) User guide per role (Administrator, Supervisor)

2. Immuware Licensing & Set Up Pricing

#	Included	Year 1	Year 2	Year 3
1	Core Platform Annual License (unlimited Administrator and Supervisor User Access)	\$13,637	\$14,592	\$15,614
2	Employee Portal Annual License	\$1,300	\$1,391	\$1,489
3	Exposures, Injury and Illness Tracking Module Annual License (with OSHA reports)	\$1,575	\$1,686	\$1,805
4	One Time Setup and Implementation Costs*	\$7,929	-	-
5	Immuware - SMS Text Messaging Notifications - 25,000 Texts	\$2,250	\$2,443	\$2,650
Total Net Amount		\$26,691	\$20,112	\$21,558

**This set up cost assumes the inclusion of all products and tasks listed above as included.*

Above pricing is valid until July 1, 2022.

This Statement of Work is for a three (3) year term ("Term").

3. Optional Items

The following optional functionality and integrations may be added anytime during the contract period.

#	Not Included	Year 1	Year 2	Year 3
6	Appointment Scheduler Annual License	\$2,625	\$2,809	\$3,006
7	Lab Data Integration (Inbound)	\$1,575	\$1,686	\$1,805
8	Personnel Data Integration (Inbound)**	\$1,100	\$1,177	\$1,260
9	State IIS Data Integration Annual License (1-10 Vaccinations / 1 PIN Location)	\$2,500	\$2,675	\$2,863

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10	State IIS Data Integration Additional PIN Location	\$2,000	\$2,140	\$2,290
11	Random Drug Screening Module Annual License	\$3,150	\$3,371	\$3,607
12	SAML 2.0 Single Sign On (SSO) Integration*	\$1,100	\$1,177	\$1,260
13	One-Time Fillable PDF Setup & Configuration (1 PDF)	\$2,100	\$0	\$0
14	LMS Data Integration (Inbound)	\$2,625	\$2,809	\$3,006
15	Assisted Data Migration	\$2,500	\$0	\$0

*SSO price varies if requested after implementation

** Integration may incur fee from HR Vendor

4. Payment Terms

- 4.1 Customer agrees to pay all fees and other charges set forth in this Statement of Work. All fees are due net thirty (30) days from invoice date. If Customer does not pay the fees or other charges when they are due, then a finance charge of two percent (2%) per month or the maximum rate allowed by law will be assessed. We will send the invoice to emsadmin@co.delaware.oh.us (email address(es)).
- 4.2 Setup, configuration, Year 1 annual licensing fees and optional items, if any, will be invoiced upon receipt of the signed initial Agreement. Years 2 and 3 fees will be invoiced on the 1st day of the month of the anniversary date of the Agreement signature date.
- 4.3 If Customer exceeds the contracted level of services during the term of this Agreement, Customer will be charged as specified in the Statement of Work, or if not specified, using the then-current rates for the overage. Where no limits for usage of Services are explicitly given, limits will apply as specified by product earlier in this document.
- 4.4 Carminati Consulting retains copyright of all work performed until the invoice has been paid in full. If the Customer is not satisfied with any work performed, Carminati Consulting must be given a reasonable opportunity to correct the work performed before payment terms or rates are changed.
- 4.5 In the event of any conflict between the provisions contained in a Statement of Work and Software Agreement, the provisions in the Statement of Work shall govern and supersede any conflicting or inconsistent terms of the Software Agreement (provided, however, that the fact that a provision appears in a Statement of Work but not the Software Agreement, shall not be deemed to be a conflict for purposes of this sentence).

5. Single Sign-On (SSO), Data Integration & Historical Data Migration Requirements (Optional)

5.1 If Single Sign-On (SSO) Is Included (Optional):

Customers will be responsible for ensuring authentication protocols such as strong passwords, password expirations and multi-factor authentication are in place to minimize the risk of logins being compromised. Immuware is not liable for any misconfiguration or lack of authentication protocols which may cause SSO logins to be compromised.

5.2 If Automated Data Integration Is Included (Optional):

The Customer or Third-Party Vendor will be responsible for producing and securely providing a one-directional data flat file in a specified file format, as provided by Carminati Consulting. This element of the implementation is dependent on the Customer.

- Personnel Data Integration - Customer's will be responsible for providing a csv ("flat file") file as defined by the Immuware personnel specifications file format. This continuous distribution sequence will provide supervisor-employee associations, personnel hire and termination dates. The Customer will be responsible for monitoring the personnel import log and remediating all import errors.
- For lab data that is to be integrated - Customer's Lab Vendor may provide Health Level Seven ("HL7") messaging from their lab systems. If HL7 Integration is not the preferred integration type, a flat file lab data export from the Customer's lab vendor via Secure File Transfer Protocol ("SFTP") will be required. SFTP site setup may be required. Setup

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and hosting of the SFTP site by Immuware, on the Customer’s behalf, is offered, at no additional cost.

5.2 Initial Upload of Customer Data or Data Migration (Optional):

The Customer will be responsible for creating and securely providing file(s) from the legacy or external system in a specific file format that is specified by the Immuware team.

Please note: The Immuware team will upload up to three (3) iterations of the Customer’s data file(s) (e.g. personnel data or conversion data). If after three (3) versions have been tested the data file is still not correct, every iteration thereafter will be charged an additional cost of \$800.00 each.

6. Other Costs

Additional Cost Items	Cost
Additional Training* & Support** (Beyond annual support hours as listed above in section 1. Core Application License Fees)	\$200/hour
Additional Customizations	\$200/hour
License Overage Fees (Billed in arrears) If Customer exceeds the Usage Metrics (number of personnel/users), Customer will pay an one-time overage fee and will be adjusted to respective pricing tier at then-current rates. The next pricing tier is for up to 200 personnel/users. Overage metrics are calculated quarterly and invoiced accordingly. Administrative costs will apply.	\$0 Overage Fee
Termination Fee (for export of Customer’s data and documents) Upon request, all data will be provided in Immuware's raw Structured Query Language (“SQL”) BACPAC export file format along with all documents referenced by a unique identifier. If additional export formats are requested, Additional costs may be charged.	\$0

**License fee includes web-based training prior to Go Live. Any additional training and travel expenses for on-site training, including, but not limited to, airfare, hotel accommodations, car rental or ground transportation, will be billed at a reasonable cost and communicated to and approved by the Customer in advance.*

***Support hours may be used for minor configuration updates, help or training on how to use Immuware, identifying data issues, addressing Customer’s IT environment changes that impact Immuware, correcting data and user entries, password resets, training new administrators or new super users or customer requests that do not warrant a separate scope of work quote. Statement of Work quotes will be provided for complex enhancements or modifications for Customer approval prior to Carminati Consulting performing complex enhancement or modifications. Support hours will not be used for any of the following if they arise: fixing Immuware performance issues, fixing Immuware code (if this shall arise), cloud hosting configuration, new Immuware™ releases, and any other system support that is Immuware caused.*

7. Customer Commitment

In order to ensure the agreed upon timeline and cost are not exceeded, Carminati Consulting requests the following from the Customer’s project team:

- Timely responses to requests,
- Delivery of action items by agreed upon due dates.
- Identification of a Customer primary contact person. Customer primary contact person will coordinate and review requirements and/or questions with Customer’s stakeholders.
[Rachael Cox]
[Assistant Chief of Administration]
[\[emsadmin@co.delaware.oh.us\]](mailto:emsadmin@co.delaware.oh.us)
[740-833-2194]

8. Disclaimer

A configuration template will be provided to be completed and signed-off on by Customer as part of the Software implementation process. Configurations will then be made as defined in the requirements document.

Carminati Consulting may issue a change order for additional hours related to additional configurations, integration development, customizations or best practices consulting services resulting from:

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- Customer requested modifications to requirements once system configuration has been completed,
- Customer requested modifications to workflows or organizational structure that impact the Immuware project’s timeline and/or level of effort,
- Customer driven delays, of more than two (2) weeks, to the mutually agreed upon timeline defined during the Project Kickoff meeting.

Vote on Motion Mr. Merrell Aye Mrs. Lewis Aye Mr. Benton Aye

17

RESOLUTION NO. 22-614

IN THE MATTER OF DECLARING COUNTY PERSONAL PROPERTY OBSOLETE, UNFIT, OR NOT NEEDED FOR PUBLIC USE:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, section 307.12 of the Revised Code authorizes the Delaware County Board of Commissioners (the “Board”) to dispose of county personal property that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, after determining the value of the property to be disposed; and

WHEREAS, the Delaware County Engineer has determined that the following equipment is no longer needed for public use and/or is obsolete or unfit for the use for which it was acquired:

<u>Asset Tag Number</u>	<u>Item Description</u>	<u>Serial Number</u>
4810310094	1996 International 4900	1HTSDAAN8TH288682
ENG1410	2002 International 7300	1THWAAAR02J048012
ENG1001	2010 MTI Inclosed Trailer	5RABE1525AM505879
5489	2004 Viking Plow	CR03-406
ENG1103	2011 GMC Sierra 1500	1GTN2TEA2BZ387569
	2000 Pengwyn Spinner	023
ENG1925	10' Dump Body (American)	14845
(Assted with 5535)	Fisher Plow	4012020580728000
5535	2004 Ford S-Duty F250	1FTNF21S94EB97176
0206150109	2000 10,000 Gallon Poly Tank	40330
(No asset number)	1986 Hyster Fork Lift	A177B9670G

(hereinafter collectively referred to as the “Property”); and

WHEREAS, each item of the Property listed herein has an estimated value of less than \$2,500.00;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, as follows:

Section 1. The Board hereby declares that the Property is obsolete, unfit, or not needed for public use and authorizes the Property to be sold by internet auction, private sale, or sale or donation to a political subdivision, in accordance with section 307.12 of the Revised Code.

Section 2. The Board hereby declares that any Property that has no value and cannot be disposed of in accordance with Section 1 of this Resolution within a reasonable period of time shall be discarded or salvaged.

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

18

RESOLUTION NO. 22-615

IN THE MATTER OF AWARDING A BID AND APPROVING A CONTRACT BETWEEN THE DELAWARE COUNTY COMMISSIONERS AND COMPLETE GENERAL CONSTRUCTION FOR THE BYXBE CAMPUS ROLLER COMPACTED CONCRETE BASE FOR PARKING LOT PROJECT:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

**DEL-Byxbe Campus Roller Compacted Concrete Base for Parking Lot Project
Bid Opening of July 12, 2022**

WHEREAS, as the result of the above referenced bid opening, the Engineer recommends that a bid award be made to Complete General Construction, the low bidder for the project; and

WHEREAS, the County Engineer recommends approval of the Contract between the Delaware County Commissioners and Complete General Construction for DEL-Byxbe Campus Roller Compacted Concrete

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Base for Parking Lot Project;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners awards the bid to and approves the contract with Complete General Construction for DEL-Byxbe Campus Roller Compacted Concrete Base for Parking Lot Project, as follows:

CONTRACT

THIS AGREEMENT is made this 28th day of July by and between **Complete General Construction, 1221 East Fifth Avenue, Columbus, Ohio 43219**, hereinafter called the “Contractor” and the Delaware County Commissioners, hereinafter called the “Owner”.

The Contractor and the Owner for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services, and perform and complete all work required for the construction of the improvements embraced in the project named **“DEL-Byxbe Campus Roller Compacted Concrete Base for Parking Lot Project”**, and required supplemental work for the project all in strict accordance with the Contract Documents.

ARTICLE 2. The Contract Price

The Owner will pay the Contractor for the total quantities of work performed at the unit prices stipulated in the Bid for the respective items of work completed for the sum not to exceed **Six Hundred Forty-Nine Thousand Seven Hundred Sixty-Three Dollars and Zero Cents (\$649,763.00)** subject to additions and deductions as provided in the Contract Documents.

ARTICLE 3. Contract

The executed Contract Documents shall consist of the following:

- a. This Agreement
- b. Addenda
- c. Invitation to Bid
- d. Instructions to Bidders
- e. Signed copy of bid
- f. Work Specifications (including all plans, drawings, etc.)
- g. Specifications – General Provisions
- h. Federal and State Requirements

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in two original copies on the day and year first above written.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

19

RESOLUTION NO. 22-616

IN THE MATTER OF ACCEPTING THE ROADS, APPROVING RECOMMENDED SPEED LIMITS, ESTABLISHING STOP CONDITIONS, AND RELEASING THE SURETIES FOR EVANS FARM SECTION 1:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

Evans Farm Section 1:

WHEREAS, the Engineer has reviewed the roadway construction of the roads within Evans Farms Section 1 (the “Subdivision”), finds them to be constructed in accordance with the approved plans, and recommends that the following roadways within the Subdivision be accepted into the public system:

- An addition of 0.37 mile to Township Road Number 1818, Evans Farm Drive
- An addition of 0.45 mile to Township Road Number 1820, Linden Street
- An addition of 0.18 mile to Township Road Number 1819, Maple Drive
- An addition of 0.39 mile of Township Road Number 1821, Red Oak Street

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- An addition of 0.10 mile of Township Road Number 1822, Poplar Place
- An addition of 0.14 mile of Township Road Number 1823, Hickory Drive
- An addition of 0.13 mile of Township Road Number 1824, Butternut Drive
- An addition of 0.14 mile of Township Road Number 1825, Walnut Way
- An addition of 0.06 mile of Township Road Number 1826, Pin Oak Court
- An addition of 0.17 mile of Township Road Number 99, Piatt Road
- An addition of 0.20 mile of Township Road Number 1647, Joab Street; and

WHEREAS, the Engineer also recommends that 25 mile per hour speed limits be established throughout the Subdivision; and

WHEREAS, the Engineer recommends that the following stop conditions be established within the Subdivision:

- On Township Road Number 1818, Evans Farm Drive, at its intersection with County Road 106, Lewis Center Road
- On Township Road Number 1820, Linden Street, at its intersection with Township Road 1818, Evans Farm Drive
- On Township Road Number 1821, Red Oak Street, at its intersection with Township Road 1818, Evans Farm Drive, and with Township Road 99, Piatt Road and with Township Road 1819, Maple Drive
- On Township Road 1822, Poplar Place, at its intersection with Township Road 1823, Hickory Drive
- On Township Road Number 1823, Hickory Drive with Township Road Number 1821, Red Oak Street and with Township Road Number 1820, Linden Street
- On Township Road Number 1824, Butternut Drive, at its intersection with Township Road Number 1821, Red Oak Street and at Township 1820, Linden Street
- On Township Road Number 1825, Walnut Way at its intersection with Township Road Number 1819, Maple Drive and with Township Road 1825, Butternut Drive
- On Township Road Number 1826, Pin Oak Court at its intersection with Township Road Number 1821, Red Oak Street and with Township Road Number 1825, Walnut Way; and

WHEREAS, the Engineer requests approval to return the maintenance surety to the owners, Evans Farm Land Development, LLC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby accepts the Engineer’s recommendations stated herein and accepts the roads, approves speed limits and stop conditions, and releases sureties in accordance with the Engineer’s recommendations stated herein.

Vote on Motion Mr. Benton Aye Mrs. Lewis Aye Mr. Merrell Aye

20

RESOLUTION NO. 22-617

IN THE MATTER OF APPROVING A DRAINAGE MAINTENANCE PETITION AND THE DITCH MAINTENANCE ASSESSMENTS FOR NELSON FARMS SECTIONS 3, PHASES A & B AND NELSON FARMS NORTH:

It was moved by Mr. Merrell, seconded by Mr. Benton to approve the following:

WHEREAS, on July 28, 2022, a Ditch Maintenance Petition for Nelson Farms Sections 3, Phases A & B and Nelson Farms North (the “Petition”) was filed with the Board of Commissioners of Delaware County (the “Board”); and

WHEREAS, the Petition sets forth the drainage improvements that have been or will be constructed within Nelson Farms Sections 3, Phases A & B and Nelson Farms North located off of Liberty Road in Liberty Township; and

WHEREAS, the petitioners have requested that the drainage improvements be accepted into the Delaware County Drainage Maintenance Program and that an annual maintenance assessment be collected with the real estate taxes for the improvements in the subject lot to cover the cost of current and future maintenance of the improvements; and

WHEREAS, the petitioners represent 100% of the property owners to be assessed for maintenance related to this drainage improvement and have waived their rights to a public viewing and hearing; and

WHEREAS, based on a review of the Petition and all accompanying documents, the Board has determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delaware County, Ohio:

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Section 1. The Board hereby grants the Petition, the Board having found and determined that the improvements satisfy all statutory criteria pursuant to Chapters 6131 and 6137 of the Revised Code and all criteria for acceptance into the Delaware County Drainage Maintenance Program.

Section 2. The Board hereby approves the maintenance assessments, in accordance with the Petition, as follows:

The cost of the drainage improvements is \$1,142,864.87 and a detailed cost estimate is attached in Exhibit "D". The drainage improvements are being constructed for the benefit of the lots being created in this subdivision. 70 lots are created in these plats and each lot received an equal share of the benefit (cost) of the project. The basis for calculating the assessment for each lot is therefore, \$16,326.64 per lot. An annual maintenance fee equal to 2% of this basis (\$326.53) will be collected for each lot. We (I) understand that the basis for calculating the maintenance assessment will be reviewed and possibly revised every 6 years. The first year's assessment for all of the lots in Section 3, Phases A & B (33 Lots) the amount of \$10,775.49 has been paid to Delaware County, receipt of which is hereby acknowledged.

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

21

RESOLUTION NO. 22-618

IN THE MATTER OF APPROVING OWNER’S AGREEMENTS FOR NELSON FARMS SECTION 3 PHASES A & B, AND LIBERTY GRAND DISTRICT SECTION 8 PHASES A & B:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, the Engineer recommends approving the Owner’s Agreements for Nelson Farms Section 3 Phases A & B, and Liberty Grand District Section 8 Phases A & B;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Commissioners approves the Owner’s Agreements for Nelson Farms Section 3 Phases A & B, and Liberty Grand District Section 8 Phases A & B, as follows:

Nelson Farms Section 3 Phase A:

**OWNER'S AGREEMENT
PROJECT NUMBER: 22080**

THIS AGREEMENT, executed on this 28th day of July, 2022, between PULTE HOMES OF OHIO LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Nelson Farms Sec 3 Ph A further identified as Project Number 22080 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or

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from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit Sixty Nine Thousand Dollars and No Cents (\$69,000.00) estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**. The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$3,474,700.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$347,500.00

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INSPECTION FEE DEPOSIT

\$69,000.00

Nelson Farms Section 3 Phase B:**OWNER'S AGREEMENT****PROJECT NUMBER: 22081**

THIS AGREEMENT, executed on this 28th day of July, 2022, between PULTE HOMES OF OHIO LLC, hereinafter called "**OWNER**" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Nelson Farms Sec 3 Ph B further identified as Project Number 22081 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 2 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Thirty Thousand Dollars and No Cents (\$30,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the

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COUNTY COMMISSIONERS from the County Engineer of his approval. The OWNER'S maintenance responsibility as described above shall be completed upon formal acceptance by the COUNTY COMMISSIONERS.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the OWNER. All of the funds set forth in the AGREEMENT shall be made available to the County Engineer to ensure proper safety compliance.

The OWNER shall, within thirty (30) days of completion of construction and prior to final acceptance, to the COUNTY COMMISSIONERS, as required, "as-built" drawings of the improvements, which plans shall become the property of the COUNTY and remain in the office of the Delaware County Engineer.

The OWNER shall, within thirty (30) days of completion of construction, furnish to the COUNTY COMMISSIONERS an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The OWNER shall indemnify and hold harmless Delaware County and all Townships and/or Villages within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The OWNER shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The OWNER shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the OWNER and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the County.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the OWNER'S heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this AGREEMENT.

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$739,100.00
CONSTRUCTION BOND AMOUNT	N/A
MAINTENANCE BOND AMOUNT	\$74,000.00
INSPECTION FEE DEPOSIT	\$30,000.00

Liberty Grand District Section 8 Phase A

OWNER'S AGREEMENT

PROJECT NUMBER: 22082

THIS AGREEMENT, executed on this 28th day of July, 2022, between M/I HOMES OF CENTRAL OHIO, LLC, hereinafter called "OWNER" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Liberty Grand District Sec 8 Ph A further identified as Project Number 22082 is governed by the following considerations to wit:

Said OWNER is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

1. Should OWNER elect to record the plat prior to beginning construction, OWNER shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should OWNER elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as OWNER elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

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OWNER hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Thirty Thousand Dollars and No Cents (\$30,000.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements.

The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and

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requirements of this AGREEMENT.

In consideration whereof, the BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO hereby grants the OWNER or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"	
CONSTRUCTION COST ESTIMATE	\$750,300.00
CONSTRUCTION BOND AMOUNT	\$750,300.00
MAINTENANCE BOND AMOUNT	\$75,100.00
INSPECTION FEE DEPOSIT	\$30,000.00

Liberty Grand District Section 8 Phase B:

OWNER'S AGREEMENT

PROJECT NUMBER: 22083

THIS AGREEMENT, executed on this 28th day of July, 2022, between M/I HOMES OF CENTRAL OHIO, LLC , hereinafter called "OWNER" and the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY OHIO (COUNTY COMMISSIONERS)**, for the project described as Liberty Grand District Sec 8 Ph B further identified as Project Number 22083 is governed by the following considerations to wit:

Said **OWNER** is to construct, install or otherwise make all public improvements shown and set forth to be done and performed in compliance with the approved engineering drawings and specifications, all of which are a part of this **AGREEMENT**.

OPTIONS:

1. Should **OWNER** elect to record the plat prior to beginning construction, **OWNER** shall execute bond, certified check, irrevocable letter of credit, or other approved financial warranties equal to the cost of construction as shown in **Exhibit "A"** attached hereto.
2. Should **OWNER** elect to proceed to construction prior to recording the plat, no approved financial warranties are necessary until such time as **OWNER** elects to record the plat. Such plat cannot be recorded until the County Engineer has determined the construction of the project is at least 80% complete.

OWNER hereby elects to use Option 1 for this project.

The financial warranties are to insure faithful performance of this **AGREEMENT** and the completion of all improvements in accordance with the **Delaware County Design, Construction and Surveying Standards and any supplements thereto**. The **OWNER** shall pay the entire cost and expense of said improvements, unless otherwise specifically noted herein.

The **OWNER** shall indemnify and save harmless **Delaware County and all Townships and/or Villages** within Delaware County and all of their officials, employees or agents from all claims, suits, actions and proceedings which may originate from or on account of any death, injuries or damages to persons or property received or sustained as a consequence of any actions or omissions of any contractor or subcontractor or from any material, including explosives, or any method used in said work or by or on account of any accident caused by negligence or any other act or omission of any contractor or his agents or employees.

All public improvement construction shall be performed within one (1) year from the date on which this **AGREEMENT** is executed by the **COUNTY COMMISSIONERS**.

The **OWNER** further agrees that any violations of or noncompliance with any of the provisions and stipulations of this **AGREEMENT** shall constitute a breach of contract, and the **COUNTY** shall have the right to stop work forthwith and act against the performance surety for the purpose of proper completion of the public improvements within this subdivision.

It is further agreed that upon execution of the **AGREEMENT**, the **OWNER** shall deposit **Ten Thousand Six Hundred Dollars and No Cents (\$10,600.00)** estimated to be necessary to pay the cost of inspection by the **Delaware County Engineer**. When the fund has been depleted to ten percent (10%) of the original

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amount deposited, the **OWNER** shall replenish the account upon notice by the **Engineer**. Upon completion of the maintenance period and acceptance of the improvements by the **Delaware County Commissioners**, the remaining amount in the fund shall be returned to the **OWNER**.

Upon completion of construction, the **OWNER** shall be responsible for the maintenance, repair or construction of any and all defective materials or workmanship for a period of **one year**. Said **OWNER'S** bond, certified check, irrevocable letter of credit or other approved financial warranties may be reduced to 10% of the originally approved construction estimate as shown in **Exhibit "A"** for said maintenance. The reduction may be approved only after the **County Engineer** has been provided evidence that all work has been accomplished according to the approved plan and/or to the **County Engineer's** satisfaction. All work is to be done in accordance with the **Delaware County Design, Construction and Surveying Standards, and any supplements thereto**.

Acceptance of the project into the public system shall be completed only after written notice to the **COUNTY COMMISSIONERS** from the **County Engineer** of his approval. The **OWNER'S** maintenance responsibility as described above shall be completed upon formal acceptance by the **COUNTY COMMISSIONERS**.

Any snow or ice removal, erosion and sediment control maintenance, or other safety requirements deemed necessary by the County Engineer during the period of construction or maintenance shall be the responsibility of the **OWNER**. All of the funds set forth in the **AGREEMENT** shall be made available to the **County Engineer** to ensure proper safety compliance.

The **OWNER** shall, within thirty (30) days of completion of construction and prior to final acceptance, to the **COUNTY COMMISSIONERS**, as required, "as-built" drawings of the improvements, which plans shall become the property of the **COUNTY** and remain in the office of the **Delaware County Engineer**.

The **OWNER** shall, within thirty (30) days of completion of construction, furnish to the **COUNTY COMMISSIONERS** an itemized statement showing the cost of improvements and an affidavit that all material and labor costs have been paid. The **OWNER** shall indemnify and hold harmless **Delaware County and all Townships and/or Villages** within and all their officials, employees or agents from expenses or claims for labor or material incident to said construction of improvements. The **OWNER** shall obtain all other necessary utility services incident to the construction of the improvements and for their continued operation. The **OWNER** shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the **OWNER** and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the **County**.

Should the OWNER become unable to carry out the provisions of this AGREEMENT, the **OWNER'S** heirs, successors or assigns shall complete and comply with all applicable terms, conditions, provisions and requirements of this **AGREEMENT**.

In consideration whereof, the **BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, OHIO** hereby grants the **OWNER** or his agent, the right and privilege to make the improvements stipulated herein.

EXHIBIT "A"

CONSTRUCTION COST ESTIMATE	\$131,700.00
CONSTRUCTION BOND AMOUNT	\$131,700.00
MAINTENANCE BOND AMOUNT	\$13,200.00
INSPECTION FEE DEPOSIT	\$10,600.00

Vote on Motion Mr. Merrell Aye Mr. Benton Aye Mrs. Lewis Aye

Resolution No. 22-619 was not utilized.

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RESOLUTION NO. 22-620

IN THE MATTER OF APPROVING RIGHT-OF-WAY WORK PERMIT SUMMARY SHEET:

It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following work permits:

WHEREAS, the below requests to perform work within the right-of-way have been reviewed and approved by the Delaware County Engineer;

NOW, THEREFORE, BE IT RESOLVED that the following permits are hereby approved by the Board of

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WHEREAS, the Parties acknowledge and agree that the Project is necessitated in part by the Subdivision and, once constructed, will directly benefit the Subdivision; and

WHEREAS, the Parties mutually desire to enter into this Agreement to provide for the construction and contribution toward the costs of the Project and to facilitate the development of the Subdivision;

NOW, THEREFORE, for the reasons set forth in the recitals, which are incorporated herein by reference as an integral part of this Agreement, and in consideration of the premises and the mutual covenants hereinafter described, the Parties agree and bind themselves as follows:

Section 1. Contribution In-Lieu of Construction. The Owner's fair share of the Project is fairly estimated to be **Five Hundred Forty Six Thousand Dollars (\$546,000.00)**, which amount the Owner shall contribute to the County as a fair and proportionate share of the cost to construct, and benefit received from, the Project (and which amount shall hereinafter be referred to as the "Owner's Contribution").

The Owner's Contribution shall be made by the Owner to the County in the form of either a special assessment or cash payment in-lieu of assessment described hereinafter and shall be considered full compensation for the Owner's required portion of the Project cost. The County will not require the Owner to make any additional external traffic improvements associated with the proposed Subdivision unless the scope of the development of the Property is materially different than shown in Exhibit A.

Section 2. Levy of Special Assessment; Apportionment. Owner hereby consents and agrees to the County's levy of a special assessment upon the tax duplicate of the Property, in the manner described hereinafter and in a total amount not to exceed the Owner's Contribution, to be paid in equal, annual installments over a period of twenty (20) years commencing in tax year 2024, payable beginning with real estate taxes due January 2025.

The special assessment shall be apportioned upon the County Auditor's Parcels listed below and in the following manner:

PIN 418-240-01-054-005 (62.662 acres):

- (a) Upon any residential improved lot of less than 1 acre: \$300.00 per year
- (b) Upon all privately owned, unimproved parcels or tracts of land upon the remainder of Property, the entire remaining amount divided equally per acre of land.

Assessments upon any newly created parcels or platted building lots shall be in accordance with the County Auditor's procedures for the assessment of real property with respect to the date in which the parcel is created and the date in which the assessment is due.

Public property or property deeded to an association of homeowners for joint ownership, operation and maintenance of public amenities, or reserved for open space, public or common use, shall not be assessed.

The Owner, its agents, heirs and/or assigns, may make a written request to amend the apportionment of the special assessment as described above, at any time, and the County shall not unreasonably deny granting of such request. If the County amends the apportionment of the assessment, such changes shall become effective during the current tax year if made prior to September 1 (payable with taxes due the following January), or the following tax year if changes are made after September 1.

In order to initiate the special assessment as agreed to herein, the Owner shall sign and file with the County, no later than August 1, 2022, a special assessment petition (which shall be substantially in the form attached hereto as Exhibit B) requesting that the Project be designed, constructed and installed and that a portion of the cost of the Project equal to the Owner's Contribution be specially assessed against the Property in accordance with this Agreement.

Section 3. Cash Payment In-Lieu of Special Assessment; Other Guarantee. The Owner, its agents, heirs and/or assigns, may pay a cash sum of \$450,000.00 in lieu of the County's levy of special assessment described above, and if the full amount of \$450,000 is received by June 30, 2024, the County shall accept the same as full payment for the Owner's Contribution, and shall take necessary actions to terminate the special assessment and instruct the County Auditor not to levy the special assessment described above.

Any unpaid balance remaining as of July 1, 2024 shall be levied upon the tax duplicate as described in Section 2.

Section 4. County Agrees to Construct Improvements; Entire Share. The County shall construct, or cause to be constructed, the Project, including a single-lane, peanut-shaped modern roundabout at the intersection of Berlin Station Road and Piatt Road and a new three (3) lane roadway known as Roloson-Piatt extending north approximately 1600 feet, as depicted in Exhibit A.

County agrees to substantially complete construction of the Project by November 15, 2022.

County further agrees to cooperate and coordinate with the Owner regarding the Owner's installation

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of a sanitary sewer extending from the southwest corner of the peanut-roundabout to the northeast corner of the peanut roundabout as generally depicted in Exhibit A. County will, as part of the Project, close Berlin Station Road to traffic and allow the Owner and its contractor(s) to install said sanitary sewer by open trench construction methods.

In the event the County does not complete the Project by November 15, 2022, the County will use all reasonable efforts to ensure access for vehicular traffic is available to Patricia Ann Way and Rustic Trail Drive at Roloson-Piatt Road by such date.

Section 5. Dedication of Right of Way; Right of Entry to Construct and Maintain. The Parties acknowledge and agree that portions of the Property must be dedicated or conveyed to the County as public right-of-way and easements to facilitate the construction and maintenance of the Project and related infrastructure. The Owner shall dedicate all necessary right-of-way and easements for public use, as generally shown in Exhibit A, for the perpetual maintenance and operation of the Project and related infrastructure through the plat of Subdivision. In consideration thereof, the County shall pay to the Owner One Hundred Thousand Dollars (\$100,000.00) not later than thirty (30) days after the Owner's dedication of such lands by approval and recordation of the plat of Subdivision.

The Owner hereby authorizes and grants the right to the County to enter upon the Property for the purpose of constructing and maintaining the Project until such time as the right-of-way dedication stated above is complete. The Owner shall provide, at no additional charge, any temporary construction easements as may be reasonably required to accommodate such construction. Upon completion of the Project, the County shall restore the Property to a condition that is as near as practicable to the existing condition of the Property.

Section 6. Miscellaneous.

(a) **Assignment.** The Owner may assign this Agreement, with the consent of the County, which consent shall not be unreasonably withheld, to a purchaser of the Property, and in such case, the terms of this Agreement shall remain in full force and effect as if the Agreement were made originally with such party.

(b) **Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

(c) **Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(d) **Day for Performance.** Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

(e) **Effective Date.** This Agreement shall become effective on the date set forth in the preamble hereto.

(f) **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

(g) **Events of Default and Remedies.** Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, such defaulting Party shall, upon written notice from any non-defaulting Party, proceed immediately to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the defaulting Party.

(h) **Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(i) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the Owner, its agents and employees, and the County, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Delaware County, Ohio.

(j) **Representations; Legal Authority.** The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the

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transactions contemplated by this Agreement. The Parties further respectively represent and covenant that this Agreement has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken by the Parties have been taken to constitute this Agreement, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms. The Parties further respectively represent and covenant that each is not in violation of or in conflict with any provisions of the laws of this state or the United States of America applicable to it that would impair its ability to carry out its obligations contained in this Agreement. The Parties further respectively represent and covenant that there is no litigation pending or threatened wherein an unfavorable ruling or decision would materially adversely affect the ability to carry out the obligations under this Agreement.

(k) Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

- (i) the Owner at: M/I Homes of Central Ohio, LLC
Attn.: Josh Barkan, Vice President of Land
4131 Worth Ave, 3rd Floor
Columbus, OH 43219
- (ii) the County at: County of Delaware, Ohio
91 North Sandusky Street
Delaware, Ohio 43015
Attn: County Administrator

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices; certificates, requests or other communications shall be sent.

(l) No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

(m) Recitals. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

(n) Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

(o) Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(p) Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

EXHIBIT A

[Preliminary Plan Showing Subdivision and the Road Project]

EXHIBIT B

[Form of Special Assessment Petition]

(Copy of exhibits available in the Commissioners’ office until no longer of administrative value)

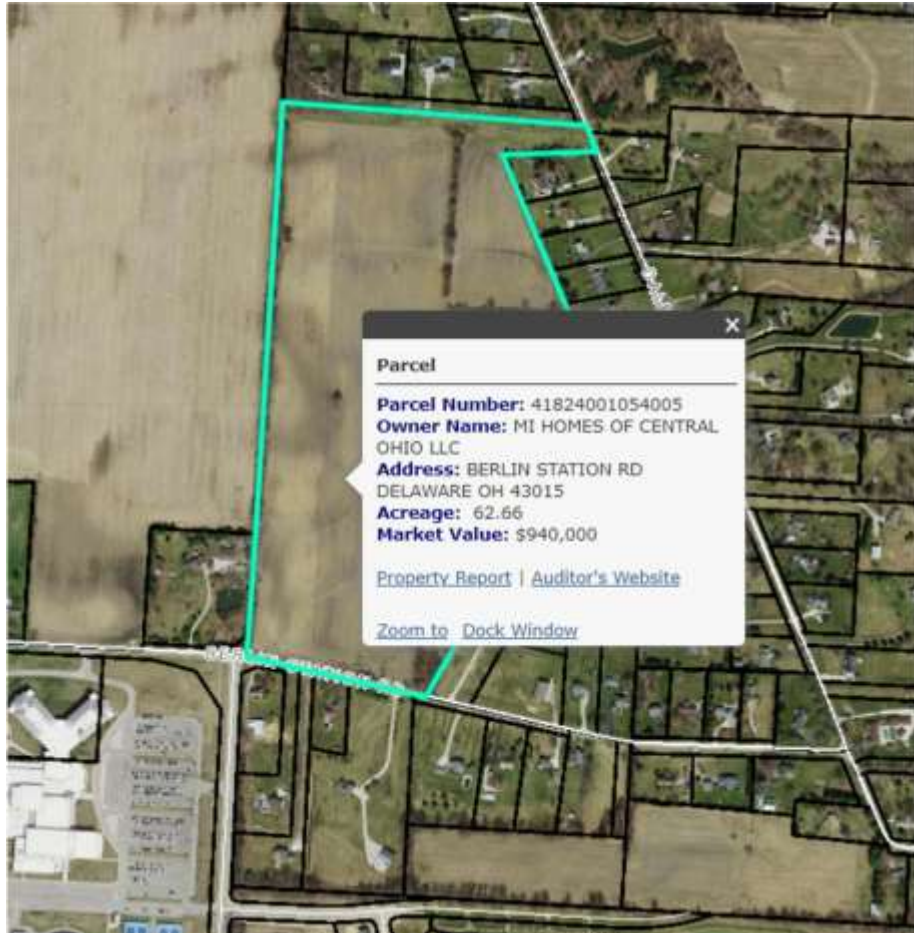
EXHIBIT A

MAP AND DESCRIPTION OF THE PROPERTY

The Property is defined as Auditor’s Parcel Number 41824001054005 as of June 30, 2022, being

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62.66 acres, more or less, situated in Berlin Township, Delaware County, Ohio as generally depicted below.



The subdivision of the Property is contemplated to occur in two sections, as depicted below:

**FARM LOT 7, QUARTER TOWNSHIP 2, TOWNSHIP 4 RANGE 18
UNITED STATES MILITARY DISTRICT
BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO
STREET, STORM SEWER AND WATER IMPROVEMENTS
FOR
BERLIN FARM, SECTION 1
2022**

STANDARD CONNECTION BILLINGS

Item	Quantity	Unit Price	Total
Water Meter	100	100.00	10,000.00
Storm Sewer	100	100.00	10,000.00
Water Main	100	100.00	10,000.00
Storm Sewer	100	100.00	10,000.00
Water Main	100	100.00	10,000.00
Storm Sewer	100	100.00	10,000.00
Water Main	100	100.00	10,000.00
Storm Sewer	100	100.00	10,000.00
Water Main	100	100.00	10,000.00
Storm Sewer	100	100.00	10,000.00
Water Main	100	100.00	10,000.00

GENERAL NOTES

1. The Engineer is not responsible for the accuracy of the data provided by the client.
2. The Engineer is not responsible for the accuracy of the data provided by the client.
3. The Engineer is not responsible for the accuracy of the data provided by the client.
4. The Engineer is not responsible for the accuracy of the data provided by the client.
5. The Engineer is not responsible for the accuracy of the data provided by the client.
6. The Engineer is not responsible for the accuracy of the data provided by the client.
7. The Engineer is not responsible for the accuracy of the data provided by the client.
8. The Engineer is not responsible for the accuracy of the data provided by the client.
9. The Engineer is not responsible for the accuracy of the data provided by the client.
10. The Engineer is not responsible for the accuracy of the data provided by the client.

ENGINEER'S CERTIFICATION

I, the undersigned, being a duly Licensed Professional Engineer in the State of Ohio, do hereby certify that I am the author of the above-mentioned plan and that I am a duly Licensed Professional Engineer in the State of Ohio.

EMHT
Engineering & Mapping, Inc.
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Byxbe Delaware Campus
Change Proposal Cost Summary

Contractor:	VAUGHN INDUSTRIES		6/30/2022
Bid Package #:	HVAC		RFP#: 4
Description:	CO 04 Engineer Walk through Duct Replacement and Repair Haul Off site & Dumpster by others - Includes Sealing of Galv Existing		
Item 1:	LABOR (field & shop)	Hours @ Base Rate	Total
	Journeyman	690 x 88 =	60720
	Fab - Offsite	250 x 62 =	15500
	Foreman	26 x 92 =	2300
	Demo of Existing	80 x 88 =	7040
Item 2:	Payroll taxes, assessments & fringe benefits		
Item 3:	Materials (attach list of materials)		
	Duct		\$ 34,986.00
	Hanger / Additional Support		\$ 12,600.00
	Duct sealer		\$ 825.00
			\$ -
Item 4a:	Equipment Rental		
Item 4b:	Equipment hourly rate	0 x 16 =	0
			\$ 133,046.00
	Total of 1, 2, 3, 4a & 4b		\$ 133,046.00
Item 5:	10% Overhead on total of Items 1,2,3,4a&4b	x 1.10	\$ 146,360.60
Item 6:	6% Profit on Item 5	x 1.06	\$ 153,050.24
	Contractor Subtotal		\$ 163,668.13
Item 7:	Subcontractors costs(attach details)		\$57,600.00
Item 8:	6% of Subcontractors cost	x 1.06	\$6,108.00
	Subcontractor Subtotal		\$60,480.00
Item 9:	Miscellaneous(without overhead&profit)		
	1. Insurance premiums/bonds		
	2. Permits,fees,licenses & Inspections		
	3. Freight		
	4. Premium payments for overtime work or special conditions with prior written consent of Owner		
	Contractor's Misc. Subtotal		
	TOTAL AMOUNT OF CHANGE		\$ 214,148.13
Submitted By:	Devan Steward		Date: 6/30/2022

Vote on Motion Mr. Benton Aye Mr. Merrell Aye Mrs. Lewis Aye

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JON MELVIN, DIRECTOR OF FACILITIES
BYXBE CONSTRUCTION UPDATE

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ADMINISTRATOR REPORTS
Tracie Davies, County Administrator
-Met the Executive Director of Stratford Ecological Center and took a tour.

Dawn Huston, Deputy Administrator
-No reports.

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COMMISSIONERS' COMMITTEES REPORTS
Commissioner Benton
-Will attend a CEBCO meeting tomorrow morning.
-Regional Planning meets tonight.
-Attended the Mainstreet Delaware Open House.

Commissioner Merrell
-Attended the Mainstreet Delaware Open House and met Courtney Hendershot, the Executive Director.

Commissioner Lewis
-No reports.

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RESOLUTION NO. 22-625

**IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF
EMPLOYMENT; COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL; FOR
PENDING OR IMMINENT LITIGATION:**

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It was moved by Mr. Benton, seconded by Mr. Merrell to approve the following:

WHEREAS, pursuant to section 121.22(G) of the Revised Code, a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the matters specified in section 121.22(G)(1)–(7) of the Revised Code; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio:

Section 1. The Board hereby adjourns into executive session for consideration of employment; compensation of a public employee or public official; for pending or imminent litigation.

Vote on Motion Mrs. Lewis Aye Mr. Benton Aye Mr. Merrell Aye

RESOLUTION NO. 22-626

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Benton, seconded by Mr. Merrell to adjourn out of Executive Session.

Vote on Motion Mr. Benton Aye Mrs. Lewis Aye Mr. Merrell Aye

There being no further business, the meeting adjourned.

Gary Merrell

Barb Lewis

Jeff Benton

Jennifer Walraven, Clerk to the Commissioners